

Trade, food safety and biosecurity

Digby Gascoine

World Bank consultant

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Trade, food safety and biosecurity

- International trade in agricultural products is often conditional on guarantees concerning freedom from pests and diseases
 - to protect the animal and plant health status, agricultural productivity and the environment of the importing countries;
 - to protect people against zoonoses.
- International trade in foods is also conditional on meeting the food safety standards of the importing countries.

Trade, food safety and biosecurity (2)

- It is legitimate for importing countries to apply restrictions – SPS measures – to imports to ensure food safety and maintain biosecurity.
- Improvements in animal and plant health in an exporting country can increase export potential of local products.
- SPS measures can also be used improperly to protect domestic industries, especially agriculture, against international competition.
 - there are many examples.

Background to the SPS Agreement

- The GATT Uruguay Round included negotiations on agricultural trade for the first time
- The general objective of SPS negotiations was to prevent countries from mis-using technical barriers to trade in the form of quarantine controls and food standards
 - which would undermine greater freedom of trade in agricultural commodities.

- history of the negotiations
 - took five years, 1989 to 1993
 - the key players were:
 - USA
 - European Union
 - Cairns Group of agricultural exporters (led by Australia)
 - developing countries
 - others (Japan, Finland, etc)



World Trade Organization

Application of the SPS Agreement

- The Agreement applies to actions by governments to ensure the safety of food and to protect animal and plant health
 - where such actions could adversely affect the trade of other Members of the WTO.
- SPS measures can include laws, regulations, decrees by Ministers, standards, official requirements for inspection, certification, sampling, testing, etc.

Basic rights

- A WTO Member has the right to take any measure that is **necessary to protect** human, animal or plant life or health
 - provided that its measures are consistent with the provisions of the Agreement.
- A Member can decide what **level of protection** against SPS risks it wants to maintain
 - but it must aim to minimise negative effects on trade.

What is an “SPS measure”?

An SPS measure is intended ...

to protect:

against:

human life or
health

risks arising from: additives,
contaminants, toxins or disease-causing
organisms in food or beverages; or from
diseases carried by animals, plants or
their products; or from pests

animal life or
health

risks arising from: additives,
contaminants, toxins or disease-
causing organisms in food or
feedstuffs; or from pests, diseases, or
disease-carrying organisms or disease-
causing organisms

An SPS measure is intended ...

to protect:

against:

plant life or
health

risks arising from entry,
establishment or spread of pests,
diseases, or disease-carrying
organisms or disease-causing
organisms

a country

risk of damage caused by the entry,
establishment or spread of pests

Basic obligations

- A Member's SPS measures cannot be more strict than is **necessary to achieve sufficient protection** of human, animal or plant life or health.
- A Member's SPS measures must be **based on scientific principles**.
- A Member's SPS measures **cannot be maintained without sufficient scientific evidence**
 - unless they are being implemented on a provisional basis while the necessary scientific evidence is being gathered and assessed.
- A Member's SPS measures cannot favour domestically-produced goods by comparison with similar imported goods (so-called **"national treatment"**); nor can they favour goods imported from one country by comparison with similar goods imported from another country (**"non-discrimination"**).

Use of international standards

- Where relevant standards, guidelines and recommendations made by the Codex Alimentarius Commission, the World Organisation for Animal Health (OIE), and the organisations that operate within the framework of the International Plant Protection Convention are available, a Member **must base its SPS measures on these international norms**
 - except where the international norms are **not strict enough** to achieve the appropriate level of protection or there is a **scientific justification** for not using the international norm.
- A Member's measures that are based on international norms are consistent with the SPS Agreement.

Measures not based on international norms

- If there is no relevant international norm, or one is available but not strict enough to achieve a Member's appropriate level of protection, the SPS measure of a Member must be **based on an appropriate risk assessment**.
- The risk assessment must take into account **risk assessment techniques** developed by the relevant international organisations, which include Codex, OIE and IPPC.

Consistent risk management

- When choosing the SPS measure that will reduce the assessed risk to an acceptably low level (that is, will achieve a Member's appropriate level of protection), the Member should maintain a **consistent approach to risk management**.
- A higher level of risk should not be accepted in one instance, by comparison with other situations, if the result would be **discrimination** against one of more trading partners or a **disguised restriction** on international trade.

Least trade restrictive measure to be chosen

- There may be various methods by which SPS measures can reduce an assessed risk to an acceptably low level.
- A Member must choose the SPS measures that achieve its appropriate level of protection with the **smallest negative effect on trade** from other WTO Members.

Provisional measures

- Measures can be implemented without a prior risk assessment if there is not enough scientific information available.
- However a Member must take into account the information that is available when it establishes the provisional measure; and
- a Member must seek the information that is needed for a proper risk assessment and carry out that assessment within a reasonable period of time.

Equivalence

- Another WTO Member that wants to export a product to a Member can propose that SPS measures that are different from the ones specified by the importing Member be used by the exporting Member to manage risk.
- A Member must accept such a proposal if the other Member can show that the measures it proposes to use will be just as effective in managing risk as the measures specified by the importing Member.
- If an exporting Member is making a claim of equivalence in respect of its exports, it must give the importing country reasonable access to the territory of the exporting country for inspection, testing and other procedures necessary to verify the exporting Member's claim.

Adaptation to regional circumstances

- When a Member is considering the risk associated with import of a particular product from another Member, it must take into account that the exporting country may be free of a pest or disease of concern to it, or that there are areas of the other country that are free of the pest or disease, or that a pest or disease may be present but only at low prevalence.
- Similarly a Member's assessment of risk and the SPS measures it applies should take into account the prevalence of pests and diseases within its own territory.

Control, inspection and approval procedures

- If a Member uses control, inspection and approval procedures to ensure that its SPS requirements are being met, these procedures must be reasonable, prompt, non-discriminatory, and transparent.
- Any fees imposed must be applied in a non-discriminatory way and must be no higher than the actual cost of the procedure.

Transparency

- A Member must nominate and maintain a **single enquiry point** to answer the questions of other Members and provide relevant documents regarding SPS measures and related matters.
- A Member must nominate and maintain a **single national notification authority** to implement specified notification procedures for its measures that are not based on a relevant international norm and which may have a significant affect on the trade of other Members. In particular, proposed new measures must be notified to other Members in advance, and their comments must be taken into account.

Other obligations

- A Member **must participate fully** (so far as its resources allow) in the work of the Codex Alimentarius Commission, the OIE and the IPPC standard-setting processes.

SPS Committee

- A Member should participate in the **Committee on Sanitary and Phytosanitary Measures**, which considers –
 - guidance on implementation of the Agreement
 - matters of specific trade concern
 - technical assistance needs

SPS Committee



Implementation

- A Member can decide how it will meet these obligations.
- A WTO member cannot introduce or maintain legislation, or make decisions or statements about administrative practices and procedures, that are not consistent with the SPS Agreement.
- WTO dispute settlement procedures can be used to reverse violations of the Agreement.

Provisions of the SPS Agreement concerning developing countries (1/2)

- Article 9: Members agree to facilitate provision of technical assistance to other Members, especially developing countries
 - including helping developing countries to make substantial investments, if required, to meet the SPS requirements of importing countries and expand market access opportunities

Provisions of the SPS Agreement concerning developing countries (2/2)

- Article 10 - Special and differential treatment:
special needs of developing countries to be taken into account in the preparation and application of SPS measures
 - where possible, developing countries to be given longer to comply with new SPS measures
 - SPS Committee can grant to developing countries specified time-limited exemption from obligations under the Agreement *[this provision never used]*
 - Members to encourage and facilitate participation by developing countries in relevant international organizations.
- In practice the scope for special and differential treatment has proved to be very limited

Issues being addressed in the Doha Round (1/3)

- Doha WTO Ministerial 2001 made decision on *implementation-related issues and concerns*
- On the SPS Agreement:
 - “longer time-frame for compliance” referred to in Article 10.2 to mean normally not less than six months;
 - “reasonable interval” in paragraph 2 of Annex B to normally mean not less than six months;

Issues being addressed in the Doha Round (2/3)

- SPS Committee to expeditiously develop program to further implementation of Article 4 on equivalence;
- Agreement to be reviewed every four years;
- Co-operation with ISSOs to continue, especially to facilitate participation of developing countries;
- Members urged to provide technical assistance to developing countries

Issues being addressed in the Doha Round (3/3)

- On environmental issues, Ministers declared, inter alia, that the negotiations to take place on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements *shall not add to or diminish the rights and obligations of Members under existing WTO Agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the the needs of developing and least-developed countries*

STDF

- The Standards and Trade Development Facility (STDF) was an initiative of World Bank/WTO/FAO/WHO/OIE heads at the Doha meeting
 - WTO Secretariat is responsible for administration of STDF, with oversight by inter-agency Working Group
 - funding is from the World Bank and countries
- Aim is to channel and leverage technical assistance to SPS capacity building in developing countries
- <www.standards facility.org> is the web-site of STDF

The SPS Committee and developing countries

- The SPS Committee discusses issues concerning developing countries at every meeting
 - implementation of special and differential treatment
 - technical assistance and cooperation
- The Committee has also collected information about the technical assistance needs of many developing countries
 - to facilitate donor activities

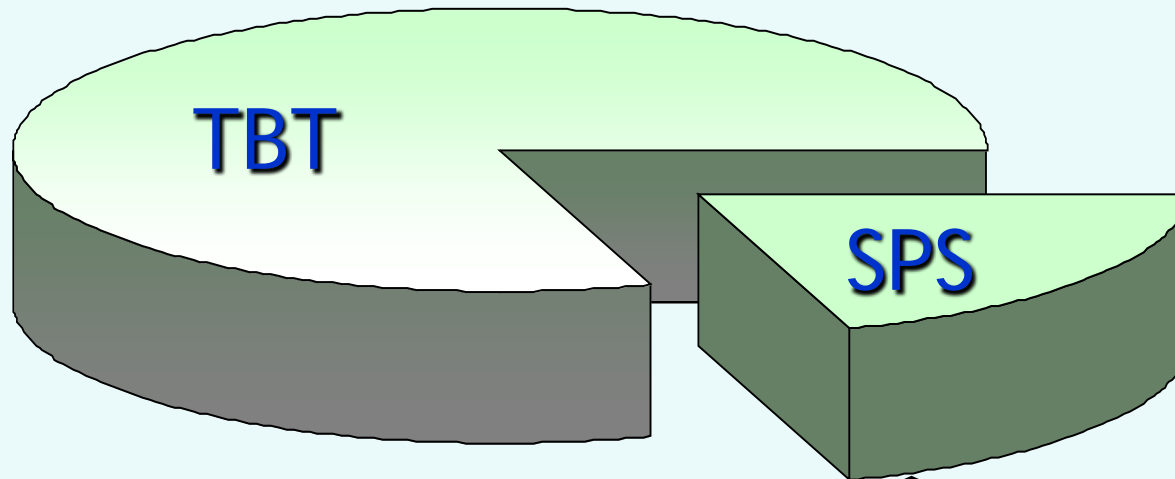
TBT and SPS

- In the Tokyo Round of GATT trade negotiations (1970s) a “Standards Code” was developed to improve practices in relation to development and application of technical requirements
 - compliance was voluntary
- In the Uruguay Round (1986-94) new, mandatory agreements were drafted:
 - the Agreement on Technical Barriers to Trade (TBT)
 - the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

Relationship between the Agreements

- The SPS and TBT Agreements cover all technical measures
 - technical measures as defined by Annex A of the SPS Agreement are covered by that Agreement
 - all other technical measures are covered by the TBT Agreement
- The classification of measures is important because the Agreements are different

The TBT Agreement applies to all technical regulations (mandatory) and standards (voluntary) and covers all industrial and agricultural products



TBT does not apply to:
SPS Measures

Types of SPS measures

SPS measures include laws, decrees, regulations, requirements and procedures, and can take many different forms:

- end product criteria
- quarantine measures
- processing/production requirements
- certification
- methods of risk assessment
- inspection procedures
- testing procedures
- approval procedures
- sampling procedures
- food safety-related labelling

Additional points

- SPS measures may also be intended to achieve other objectives - e.g. a measure that is intended to prevent food from becoming contaminated may serve an aesthetic purpose as well as protecting human health
 - but ***such a measure can only be judged as an SPS measure***; it cannot be justified by reference to the TBT Agreement as well or instead
- Environmental protection measures can be SPS measures if they fit the definition
 - otherwise they are TBT measures (they cannot be both)

Setting international SPS standards



The SPS Agreement and the ISSOs (1/2)

- The SPS Agreement gives the standards, guidelines and recommendations of the OIE, the IPPC and the Codex Alimentarius Commission the status of reference points in international trade issues.
- The ISSOs have responded by making more, relevant standards more quickly

The SPS Agreement and the ISSOs

(2/2)

- The ISSOs have made strong efforts to meet the needs of the WTO agreements
- Risk assessment methodology has been (or is being) developed as anticipated by Article 5.1 of the SPS Agreement
- The ISSOs liaise with WTO Members on SPS issues as observers in the SPS Committee.
- Business can participate in international standard-setting via consultation with national governments

Codex Alimentarius

- International food standards for consumer protection and trade



Codex Alimentarius Commission

- Began in 1963
- Joint body of FAO and WHO
- Intergovernmental (about 175 member countries)
- Observers participate from UN and other intergovernmental organizations
- Observers also from trade, industry, consumers and academia

Codex standards

- Cover TBT and SPS matters for international trade in food
- Cover food quality and food safety
- Cover all foods moving in international trade
 - processed
 - semi-processed
 - raw

Codex standards

- General
 - labelling
 - additives
 - nutrition
 - contaminants
 - residues
 - certification & inspection
 - testing methods
- Specific
 - infant foods and formulae
 - fish, meat and milk products
 - fresh, frozen and processed fruits and vegetables
 - etc.

Making Codex standards

- Standards are drafted by standing expert committees, or time-limited task forces, hosted by national governments
- Standards are adopted by the Codex Alimentarius Commission, now meeting every year
- The procedure for making standards has 8 steps involving two rounds of comments on drafts; 5 steps in the accelerated procedure.

Codex Alimentarius Commission

Joint FAO/WHO Food Standards
Programme

FAO, Rome, Italy

codex@fao.org

www.codexalimentarius.net



Office International des Épizooties
World Organisation for Animal Health

Missions of OIE

- Inform governments of the presence of animal diseases throughout the world
 - Weekly disease bulletin
- Co-ordinate studies on surveillance and control of animal diseases
- Harmonise regulations for trade in animals and animal products

Basic facts

- Created in 1924
- About 175 member countries
- Headquarters in Paris
- www.oie.int
- Financed by annual and exceptional contributions from member countries
- Working languages English, French and Spanish

Commissions

- Administrative Commission
- Regional Commissions
 - Africa; Americas; Asia, Far East and Oceania; Europe; Middle East
- Specialist Commissions
- Organization operates under the authority of an International Committee
 - normally comprises Chief Veterinary Officer in each country
 - meets in May of each year

Specialist Commissions

- the Terrestrial Animal Health Standards Commission
 - small group of elected experts
 - drafts standards and revisions for consideration and decision by the International Committee
- the Scientific Commission for Animal Diseases
- the Biological Standards Commission
 - develops standards for disease diagnostic methods and testing biological products
- the Aquatic Animal Health Standards Commission
- plus Working Groups

The Terrestrial Animal Health Standards Commission

- Small group of elected experts
- Drafts standards and revisions for consideration and decision by the International Committee



World organisation for animal health

12 rue de Prony

75017 paris, france

Tel: 33 (0)1 44 15 18 88 – Fax: 33 (0)1 42 67 09 87

Email: oie@oie.int

www.oie.int

IPPC

The International Plant Protection
Convention

Objective

The purpose of the Convention is:

“...international co-operation in controlling pests of plants and plant products and in preventing their international spread, and especially their introduction into endangered areas.”

Basic facts

- Convention came into force in 1952
- Amended 1973 and 1997
 - revision of 1997 to reflect the role of IPPC in relation to the SPS Agreement, which came into force in 2005
- Secretariat within FAO in Rome
- More than 165 contracting parties
- www.ippc.int
- English, French, Spanish, Arabic, Chinese

Structure

- From 1952 to 1992, administered by FAO and implemented by co-operation between national and regional plant protection organisations
- Secretariat established 1992
 - funded through FAO budget
- The ***Commission on Phytosanitary Measures (CPM)*** is now the governing body

Making standards (1/2)

- ***International Standards for Phytosanitary Measures*** developed since 1993
- Formal procedures established 1999
- New standards developed by:
 - expert working groups
 - NPPOs or RPPOs
 - the Secretariat
 - on the proposal of the WTO SPS Committee
- Drafts are reviewed by the ***Standards Committee***

Making standards (2/2)

- Drafts reviewed by SC are sent to all member governments for comment
- Comments considered by SC and drafts amended
- Revised drafts submitted to ICPM for adoption
- Adoption by consensus
 - provision for adoption by 2/3 majority vote
- Standards are not mandatory

ISPMs (1)

- 34 to date, including :
 - Principles of plant quarantine
 - Guidelines for pest risk analysis
 - Requirements for the establishment of pest free areas
 - Export certification system
 - Determination of pest status in an area
 - Requirements re pest free places of production, etc.
 - Pest risk analysis for quarantine pests
 - Guidelines for phytosanitary certificates
 - Guidelines for the notification of non-compliance and emergency action

ISPMs (2)

- Regulating wood packaging material in international trade
- Use of irradiation as a phytosanitary measure
- Pest reporting
- Lists of regulated pests
- Guidelines for a phytosanitary import regulatory system
- Recognition of pest free areas and areas of low pest prevalence

IPPC

International Plant Protection
Convention Secretariat

FAO, Rome, Italy

tel. 39 06 5705 4812; fax 39 06 5705
6347

email: IPPC@fao.org

www.ippc.int

Digby Gascoine
PO Box 4012, Manuka, ACT
Australia 2603

digby@gascoine.net.au

612 62301020 / 61 438 317919
fax 612 62301021