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The SPS Agreement

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Poverty Reduction through Productive Activities • Trade Capacity Building • Energy and Environment



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SPS Agreement: a carefully crafted balance


Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal and plant life or health...
(Article 2.1)



Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal and plant life or health
(Article 2.2)



Science provides the balance

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Definition of an SPS Measure


To Protect

- human or animal life or health
- human life or health
- animal or plant life or health
- a country

From



- risks arising from additives, contaminants, toxins or disease-causing organisms in their food, beverages, feedstuffs;
- plant- or animal-carried diseases (zoonoses);
- pests, diseases, or disease-causing organisms;
- damage caused by the entry, establishment or spread of pests

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What type of measures?

All measures with these SPS purposes, including:

- ✓ product criteria
- ✓ quarantine measures
- ✓ processing requirements
- ✓ certification



- ✓ inspection
- ✓ testing
- ✓ health-related labelling

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Other types of measures...


➤ Protection of the
environnement



➤ Consumer
interests other
than health




➤ Animal welfare



↓ are not covered
by the SPS
Agreement...



↓ ... but may be
TBT measures

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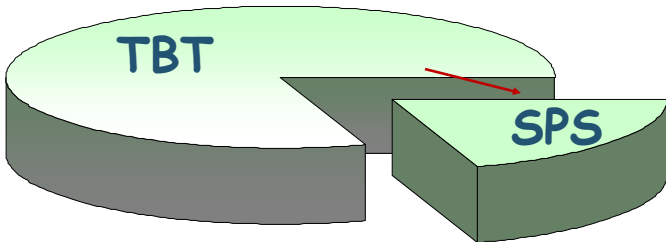
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TECHNICAL
BARRIERS TO TRADE
(TBT)

TBT Applies To:
All Industrial And Agricultural
Products




TBT

SPS

SANITARY AND
PHYTOSANITARY MEASURES
(SPS)



TBT Does Not Apply To:
SPS Measures

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Legal obligations: SPS vs TBT

SPS


- Appropriate level of protection (ALOP)
- Food safety, animal health, plant protection
- Based on risk assessment
- Based on scientific evidence
- Non-discriminatory
- Right to restrict trade if necessary to protect health

TBT

- Based on legitimate objective
 - National security
 - Prevention of deceptive practices
 - Environment
 - Health or safety of human, animal or plant life



Scientific evidence: one element to consider

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SPS or TBT?

SPS measures

- protect human or animal health from food-borne risks
- protect human health from animal- or plant-carried diseases 
- protect animals and plants from pests or diseases examples:
 - | microbiological contamination of food
 - | pesticide or veterinary drug residues 
 - | food additives

TBT measures

- human disease control (unless it's food safety)
- nutritional claims
- food packaging and quality

examples:

- | pharmaceuticals
- | labelling (unless related to food safety)
- | pesticide handling or quality
- | seat belts

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Key Provisions

- Scientific justification **Article 5**
- Harmonization **Article 3**
- Equivalence **Article 4**
- Disease-free areas **Article 6**
- Technical assistance **Article 9**
- Transparency **Article 7**


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Scientific Justification of SPS measures



- Measures conform to international standards (Art. 3)
- Measures based on a risk assessment (Art. 5 and Art. 2)

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Harmonization

Article 3



- Encourage use of international standards
- Presumption of conformity with SPS
- Right to impose more stringent requirements, if based on scientific justification or risk assessment

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Harmonization

International Standard not used

No International Standard

Risk Assessment

SPS Measure

International standard doesn't meet appropriate level of protection

Scientific Justification Risk Assessment

SPS Measure

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Whose international standards?

International standard-setting bodies

```
graph TD; A[International standard-setting bodies] --> B[food safety  
Codex]; A --> C[animal health  
OIE]; A --> D[plant health  
IPPC]
```

food safety
Codex

animal health
OIE

plant health
IPPC

Codex = Joint FAO/WHO Codex Alimentarius Commission
OIE = World Organization for Animal Health
IPPC = International Plant Protection Convention (FAO)

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Precaution

Article 5.1

Right:

- To take provisional measures in case of insufficient scientific evidence

Obligation:

1. To seek additional information
2. To review the measure accordingly
3. within a reasonable period of time

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Equivalence Article 4

- accept other Members' measures as equivalent
- exporter: must objectively demonstrate "equivalence" not "sameness"
- Importer may control for this reasonable access for inspection/testing
- Bilateral agreements
- Committee: Decision on equivalence G/SPS/19 + Rev.1,

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SPS - Regionalization

- Adapt measures to risk profiles
- Recognize disease- or pest-free zones
 - FMD, bovine tuberculosis, etc...
- Exporter to demonstrate (reasonable access for inspection/testing)

Article 6

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Special and Differential Treatment


❖ Take account of special needs of developing countries

❖ Specific and time-limited exceptions on request

❖ Facilitate developing country participation in international organizations



Article 10

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Transparency

Notifications


Regular
Emergency



When

Not based on an international Standard
Significant effect on trade

Enquiry Point



Article 7

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Technical Assistance

| Improve services

| Regulatory bodies

| Infrastructure

| Training, credit, grants, aid

World Bank

Bilateral

"Three sisters"

FAO

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