

Sanitary and Phytosanitary Capacity Building Program

# The WTO Sanitary and Phytosanitary (SPS) Agreement

WHY YOU NEED TO KNOW ...





**Australian Government**

---

**Department of Agriculture, Fisheries and Forestry**

---

**AusAID**

**ISBN 0 9751686 4 9**

### **Disclaimer**

This booklet on the SPS Agreement is only a brief introduction to the topic. It is intended as a guide, designed to raise awareness of some of the main issues countries should consider in implementing the SPS Agreement. However, it is essential that countries consult further information sources before making decisions on implementation. While every effort has been made to ensure the accuracy in the text in this booklet, it cannot be taken as an authoritative interpretation of the SPS Agreement. It should not be considered as a description of Australian Government policy nor as a representation by the Australian Government to any other government or group.

This booklet briefly outlines the basic concepts of the Agreement on the Application of Sanitary and Phytosanitary Measures (commonly referred to as ‘the SPS Agreement’) of the World Trade Organization (WTO). All countries that become members of the WTO are bound by the SPS Agreement.

The booklet shows why knowledge of the SPS Agreement is important for all who are interested in international trade in agricultural commodities.

Only a short introduction to the SPS Agreement is given here. To get a comprehensive review of the SPS Agreement you will need to go to other publications and sources of information. We provide a list of some of these at the end of this booklet and refer to them in the text using numbers in square brackets [].

## Health and international trade

The SPS Agreement is essentially about *health* and *international trade*. International trade and travel have expanded significantly in the past 50 years. This has increased the movement of products that may pose health risks. The SPS Agreement recognises the need for WTO members to protect themselves from the risks posed by the entry of pests and diseases, but also seeks to minimise any negative effects of SPS measures on trade.

The *health* aspect of the SPS Agreement basically means that WTO members can protect human, animal or plant life or health by applying measures to manage the risks associated with imports. The measures usually take the form of quarantine or food safety requirements.

The measures that WTO members apply can be classified as sanitary (relating to human or animal life or health) or phytosanitary (relating to plant life or health). They are commonly known as SPS measures.

The *international trade* aspect of the SPS Agreement basically means that, in seeking to protect health, WTO members must not use SPS measures that are: unnecessary, not science-based, arbitrary, or which constitute a disguised restriction on international trade.

This booklet focuses on trade in agricultural commodities, and in particular on animal and plant health issues; it only touches on human health issues.

# What does the SPS agreement say?

The SPS Agreement has 14 Articles, containing the rights and obligations that WTO members have agreed to. The SPS Agreement also has three annexes giving definitions of various terms, and elaborating on certain obligations in the body of the SPS Agreement.

The following terms are highlighted in this booklet — **harmonisation**, **equivalence**, **appropriate level of protection**, **risk assessment**, **regional conditions** and **transparency**. These terms represent some of the key principles in the SPS Agreement.

We do not cover the provisions of the SPS Agreement in detail in this booklet. You can read the full text of the SPS Agreement [1] at the WTO website. Also available at the site is a WTO publication [2] that more fully explains the SPS Agreement, including the difference between SPS measures and technical barriers to trade. You can gain further detailed information and find out about current developments by visiting the 'gateway' to SPS measures [3] on the WTO website.



Increasing volumes of international trade mean that quarantine procedures must be able to deal with many different types of goods and packaging, complex transport infrastructure and the associated potential pathways for pests and diseases.

The basic rights and obligations of WTO members are covered in Article 2 of the SPS Agreement, the text of which is given in the box below. At various points in this booklet, we will refer to other Articles in connection with some of the topics discussed.

## Who administers the SPS Agreement?

The SPS Agreement is administered by the Committee on Sanitary and Phytosanitary Measures (the ‘SPS Committee’), in which all WTO members can participate. The SPS Committee is a forum for consultations where WTO members regularly come together to discuss SPS measures and their effects on trade, to oversee implementation of the SPS Agreement, and to seek to avoid potential disputes.

### **SPS Agreement, Article 2 — Basic rights and obligations**

1. 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.
2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.
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.
4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

WTO members benefit from active participation in the SPS Committee. The SPS Committee has various activities to help members implement the SPS Agreement. You can find out more about the SPS Committee [4] on the WTO website.

## Risks and commodities

The SPS Agreement applies to essentially all measures taken by a WTO member to protect human, animal or plant life or health within its territory from certain risks, and which may affect international trade.

The risks to animal life or health come from:

- ▶ the entry, establishment or spread of pests (including weeds), diseases, disease-carrying organisms or disease-causing organisms; or
- ▶ additives, contaminants (including pesticide and veterinary drug residues and extraneous matter), toxins or disease-causing organisms in feedstuffs.

The risks to plant life or health may come from:

- ▶ the entry, establishment or spread of pests (including weeds), diseases, disease-carrying organisms or disease-causing organisms.

The risks to human life or health come from additives, contaminants, toxins or disease-causing organisms in foods or beverages; diseases carried by animals, plants or their products; or the entry, establishment or spread of pests.

Therefore, imports of food, plants (including plant products), and animals (including animal products) are three of the main risk pathways — but risks are not restricted to food and agricultural commodities.

### ▶ Q & A

#### **We export machinery, not agricultural commodities. Why do we need to know about the SPS Agreement and SPS measures?**

While your exports themselves may not represent a risk, they may be contaminated with soil or plant residues, or may be shipped using packaging materials such as timber pallets or plant straw. SPS measures are therefore relevant to all exporters and importers.

# Resources needed to implement the SPS Agreement

Responsibility for implementing the SPS Agreement usually lies with the government departments and national repositories that have the expertise and information relevant to plant and animal health, as well as food safety matters. The implementing bodies typically include the National Plant Protection Organization (NPPO) and the equivalent animal health and food safety authorities.



Reference collections of pests and diseases are important tools in determining and demonstrating plant health status.

A domestic regulatory framework covering the work, responsibilities and powers of these bodies is needed, together with systems to enforce compliance. This encourages confidence in assessments and confidence in certificates issued in connection with SPS measures.

Establishing animal or plant health status, and developing appropriate SPS measures, involves the collection of a lot of varied information from many different sources. This information is of continuing value, and it is important that it is organised, categorised and stored so that it is readily retrievable.

To identify risks and to research, develop and implement science-based SPS measures, WTO members need access to personnel trained in appropriate areas of expertise.

Access to expertise in the detection and diagnosis of animal and plant pests and diseases is needed to support trade in agricultural commodities, including skills in entomology, plant pathology, veterinary pathology, epidemiology, and taxonomy. Quarantine and inspection officers trained in sampling and detection techniques are needed at import entry and export exit points.

Collections of specimens, reference material on insects and plants, and laboratories equipped with diagnostic facilities, are of great importance.

▶ Q & A

**Implementing the SPS Agreement in our country is going to cost us a lot and our resources are scarce. Will it be worthwhile?**

A recent World Bank study [5] found that the costs of complying with international food standards may be less than expected and that the benefits may be underestimated because they are harder to measure than the costs. The report also notes that those developing countries that have adopted international standards have maintained or improved their access to markets for agricultural commodities, and are in a good position to continue to do so. A technical assistance specialist speaking at a recent WTO workshop (details at [3]) pointed out that countries sometimes underestimate the resources they have available to implement the SPS Agreement. For example, they might have many of the people with the expertise required but need to bring them together in the one agency.

# Central principles of the SPS Agreement

The central principles of **harmonisation**, **equivalence**, **appropriate level of protection** (ALOP), **risk assessment**, **regional conditions** and **transparency** are covered by specific Articles of the SPS Agreement.

## Harmonisation<sup>1</sup>

WTO members are entitled to determine their own SPS measures provided they are in accordance with the terms of the SPS Agreement. However, under the principle of **harmonisation** WTO members are encouraged to base their SPS measures on international standards, guidelines and recommendations, where they exist. The SPS Committee promotes and monitors international **harmonisation**.

There are three international standard-setting bodies specifically mentioned in the SPS Agreement. These are often referred to as the ‘Three Sisters’ (see box starting on the next page):

- ▶ the International Plant Protection Convention (IPPC) dealing with plant health
- ▶ the World Organisation for Animal Health (OIE) dealing with animal health
- ▶ the Codex Alimentarius Commission (Codex) dealing with food safety.

WTO Members are encouraged to participate actively in the Three Sisters, which provide other forums for delivering technical assistance.

### Can members get help in training the staff they need to be able to fulfil their SPS Agreement obligations?

As part of the SPS Agreement, WTO members are encouraged to provide technical assistance to developing country WTO members. For example, the Australian Government, through AusAID and the Department of Agriculture, Fisheries and Forestry, is running an SPS Capacity Building Program focusing on ASEAN countries.

▶ Q & A

<sup>1</sup> SPS Agreement Article 3

## Equivalence<sup>2</sup>

The SPS Agreement requires importing WTO members to accept the SPS measures of exporting WTO members as equivalent if the exporting country objectively demonstrates to the importing country that its measures achieve the importing country's ALOP. Typically, recognition of **equivalence** is achieved through bilateral consultations and the sharing of technical information.

### **The Three Sisters — setting international standards for SPS measures**

#### **International Plant Protection Convention**

The International Plant Protection Convention (IPPC) is a legally binding treaty on plant health administered by the Food and Agriculture Organization (FAO) but implemented through the cooperation of member governments and Regional Plant Protection Organizations.

The goal of the IPPC is to coordinate work to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control, with minimal disruption to trade.

The IPPC develops International Standards for Phytosanitary Measures (ISPMs). Over 25 ISPMs have been published to date including: ISPM 1 which outlines the principles for the protection of plants and the application of phytosanitary measures in international trade; and ISPM 5 which is a glossary of phytosanitary terms. A full list of ISPMs is located at the International Phytosanitary Portal [6], which is a forum for reporting and exchanging of information by governments.

#### **World Organisation for Animal Health**

The World Organisation for Animal Health (OIE) [7] was formed by an international agreement in 1924 with 28 member countries. The organisation has now grown to 167 member countries.

... continued on next page

<sup>2</sup> Article 4

### The Three Sisters ... continued

Its objectives include ensuring **transparency** in the global animal disease and zoonosis situation, publishing health standards for trade in animals and animal products, promoting veterinary skills, improving the safety of food of animal origin and promoting animal welfare through a science-based approach.

OIE's standards, guidelines and recommendations are contained in the *Terrestrial Animal Health Code*, the *Manual of Diagnostic Tests and Vaccines for Terrestrial Animals*, the *Aquatic Animal Health Code* and the *Manual of Diagnostic Tests for Aquatic Animals*.

### Codex Alimentarius Commission

The Codex Alimentarius Commission (the 'food code') is a body of the Joint Food Standards Programme of the Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

Codex [8] develops and encourages implementation of standards, codes of practice, guidelines and recommendations covering all aspects of food safety, including handling and distribution. In setting international standards for food, Codex has a dual mandate to protect the health of consumers and to ensure fair practices in the food trade.

Codex has developed a wide range of specific texts covering various aspects of food safety and quality, which can be found on the Codex website [8].

### **I am an exporter of agricultural produce. How can I be sure the SPS measures I apply to my products will meet importing country requirements?**

It is important to check with the relevant authorities of the importing country. They are in the best position to provide the information about their quarantine requirements for agricultural imports. Meeting the relevant international standards of the Three Sisters is often a good starting point.

## Appropriate level of protection<sup>3</sup>

According to the SPS Agreement the **appropriate level of protection** (ALOP) is the level of protection deemed appropriate by the WTO member to protect human, animal or plant life or health within its territory.

It is important to clearly distinguish between the ALOP established by a WTO member and the SPS measures. The ALOP is a broad objective. The SPS measures are established to attain that objective. The determination of the ALOP logically precedes the establishment of an SPS measure.

Each WTO member has the right to determine its own ALOP. However, in determining their ALOP, WTO members should take into account the objective of minimising negative trade effects. In addition, WTO members are required to apply the concept of ALOP consistently; i.e. they must 'avoid arbitrary or unjustifiable distinctions' that 'result in discrimination or a disguised restriction on international trade'.



Developing the capacity to implement SPS measures can also benefit domestic agricultural industries

<sup>3</sup> Article 5

## Risk assessment<sup>3</sup>

The SPS Agreement requires WTO members to base their SPS measures on a **risk assessment**, as appropriate to the circumstances. In conducting such **risk assessments** WTO members are required to take into account **risk assessment** techniques developed by relevant international organisations.

The reason WTO members conduct a **risk assessment** is to determine the SPS measures to apply to an import in order to achieve their ALOP. However, the SPS measures which a WTO member adopts must not be more trade-restrictive than required to achieve their ALOP, taking into account technical and economic feasibility.

### The meaning of **risk assessment** is defined in the SPS Agreement as:

- ▶ the evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing WTO member according to the SPS measures which might be applied, and of the associated potential biological and economic consequences

OR

- ▶ the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

In practical terms, a **risk assessment** is essentially the process of gathering scientific evidence and relevant economic factors on the risks involved in allowing a particular import to enter a country. An importing member is likely to seek information on matters such as the pests or diseases that might be associated with the commodity for which permission to import has been sought, and if they are present in the exporting country. The types of questions that might be asked include: Does the pest or disease occur in your country? Have the pests or diseases been controlled? Are they restricted to particular parts of the country? How effective are the procedures applied to ensure that products for export are free from pests, diseases and other contaminants?

---

<sup>3</sup> Article 5

## ▶ Q &amp; A

**Our government doesn't have the resources to gather the information for **risk assessments** and run continual surveillance programs. Why do we have to worry about these processes, when it is cheaper for us to fumigate our crops or our exports?**

In the longer term this approach may become uneconomical and, if chemical residues are an issue, may undermine trade. You may still have to provide importers with certification of the effectiveness of your practices. This involves providing information on the pests and diseases that may be present — pest and disease lists. Having the capacity to provide this information will help build knowledge of your agricultural industries' health status, which can lead to less dependence on fumigation and similar measures, and more economical management of pest and disease risks.

WTO members may adopt provisional SPS measures where there is insufficient scientific evidence to complete a **risk assessment**. However, in such circumstances WTO Members are required to seek to obtain the additional information necessary for a more objective **risk assessment** within a reasonable period of time.

### **International standards for **risk assessment****

The Three Sisters have developed various **risk assessment** techniques which are outlined below. Further details can be found on their websites.

IPPC has issued three standards specifically dealing with risk analysis:

- ▶ ISPM 2. Guidelines for pest risk analysis (PRA)
- ▶ ISPM 11. PRA for quarantine pests including analysis of environmental risks
- ▶ ISPM 21. PRA for regulated non-quarantine pests.

The OIE deals with risk analysis in its *Handbook on import risk analysis for animals and animal products* and terrestrial and aquatic animal health codes.

Codex had published *Principles and guidelines for the conduct of microbiological risk assessment* and *Principles for the risk analysis of foods derived from modern biotechnology*.

## Regional conditions<sup>4</sup>

The SPS characteristics of a geographic region — be it all of a country, part of a country, or all or parts of several countries — are referred to in the SPS Agreement as **regional conditions**. They can affect the risk posed to human, animal or plant life or health.

Accordingly, the SPS Agreement requires WTO members to adapt their SPS measures to the **regional conditions** from which the product originated and to which the product is destined. In particular, WTO members are required to recognise the concepts of pest/disease-free areas and areas of low pest/disease prevalence.

Exporting WTO members claiming pest/disease-free areas or areas of low pest/disease prevalence must demonstrate to the importing WTO member that such areas are, and are likely to remain, pest/disease-free areas or areas of low pest/disease prevalence.

### Establishing pest free areas

The OIE and IPPC have developed standards for pest free areas (PFAs). The IPPC's published standards provide a great deal of guidance for establishing PFAs for plant pests.

- ▶ ISPM 2 and ISPM 4 provide guidance on specific surveys to detect a pest or to map the limits of its occurrence.
- ▶ ISPM 6 provides guidelines for surveillance work.
- ▶ ISPM 8 details procedures for determining pest status in an area based on pest records.

The Australian Government recently published detailed *Guidelines for surveillance for plant pests in Asia and the Pacific* [9].

---

<sup>4</sup> Article 6

## Transparency<sup>5</sup>

The principle of **transparency** in the SPS Agreement requires WTO members to provide information on their SPS measures and to notify changes in their SPS measures. WTO members are also required to publish their SPS regulations. The notification requirements are met through a national notification authority. Each WTO member must also nominate a national enquiry point to deal with SPS related queries from other WTO members. A single agency may perform both notification and enquiry functions.

A practical handbook, *How to apply the transparency provisions of the SPS Agreement*, can be downloaded at the WTO SPS measures gateway [3].



Plant pest and disease diagnosis skills are very important for WTO members in implementing the SPS Agreement.

---

<sup>5</sup> Article 7

# Technical assistance and special treatment

The WTO recognises that the technical capacity to implement the SPS Agreement will vary between WTO members. Developing country members, in particular, may find implementation challenging due to resource constraints, including limited expertise.

To help overcome this problem, a number of mechanisms are built into the SPS Agreement.

WTO members agree to facilitate the provision of technical assistance to other members, especially developing countries, either bilaterally or through international organisations such as the Three Sisters. The form of this technical assistance and how it can be provided is broadly defined.<sup>6</sup>

The SPS Agreement also provides for special and differential treatment.<sup>7</sup> For example, in applying SPS measures WTO members are required to take account of the special needs of developing country members, particularly the least-developed country members.

Many developing country WTO members have benefited by basing their SPS measures on existing international standards, guidelines and recommendations issued by the Three Sisters.

## Who benefits?

The SPS Agreement supports the WTO's agenda for promoting global free trade and realising the benefits that this brings for all WTO members, developed and developing.

The SPS Agreement recognises WTO members' rights to protect human, animal or plant life or health, provided that certain requirements are met. The key requirements are that SPS measures must be science-based; they must not be more trade-restrictive than required; they must not arbitrarily or unjustifiably discriminate; and they must not constitute a disguised restriction on international trade. The overall goal is free and healthy trade.

---

<sup>6</sup> Article 9

<sup>7</sup> Article 10

Exporters and importers of agricultural commodities in all WTO member countries benefit from the rules established by the SPS Agreement. As part of the WTO rules-based global trading system, the SPS Agreement works to ensure that agricultural trade flows as smoothly, predictably and freely as possible. In particular, the SPS Agreement provides an objective basis for assessing which SPS measures unjustifiably restrict trade. In addition, consumers benefit from the availability of safe and competitively priced food and agricultural commodities.

Developing countries benefit from the technical assistance available to improve their quarantine and food safety systems, including enhanced capacity in diagnostics, analysis, inspection, certification, information management and reporting. This improved SPS capacity is likely to open more international markets to exporters in these developing countries. In addition, it supports the management of agricultural industries, to the general benefit of domestic producers and domestic consumers.



The SPS Agreement supports the provision of technical assistance to developing countries.

# Where you can find out more ...

- [1] The full text of the SPS Agreement is at:  
<[http://www.wto.org/English/tratop\\_e/sps\\_e/spsagr\\_e.htm](http://www.wto.org/English/tratop_e/sps_e/spsagr_e.htm)>.
- [2] A publication in WTO Agreement Series covers SPS measures. It explains the Agreement, including differences between SPS measures and TBT, and answers some frequently asked questions. Go to: <[http://www.wto.org/english/res\\_e/booksp\\_e/agrmtseries4\\_sps\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/agrmtseries4_sps_e.pdf)>.
- [3] WTO SPS measures 'gateway' opens a mine of information about the Agreement and SPS developments and activities around the world:  
<[http://www.wto.org/english/tratop\\_e/sps\\_e/sps\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/sps_e.htm)>.
- [4] Information about SPS Committee functions and activities can be found at:  
<[http://www.wto.org/english/tratop\\_e/sps\\_e/sps\\_agreement\\_cbt\\_e/c4s1p1\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c4s1p1_e.htm)>.
- [5] 'Food safety and agricultural health standards: challenges and opportunities for developing country exports', World Bank Report No. 31207, available at <<http://www.worldbank.org/trade/standards>>, then search for 'food safety'.
- [6] The International Phytosanitary Portal (IPP) at <<http://www.ippc.int>> is the forum for reporting and exchanging of information by governments.
- [7] Information about the activities of the World Organisation for Animal Health (OIE) can be found at <<http://www.oie.int>>.
- [8] The address of the website of the Codex Alimentarius Commissions is:  
<<http://www.codexalimentarius.net>>.
- [9] This publication can be downloaded at: <<http://www.aciar.gov.au/web.nsf/doc/ACIA-6HZ3TK>>

## Postal addresses for the Three Sisters ...

### IPPC Secretariat

Plant Production and Protection Division  
Food and Agriculture Organization of the  
United Nations  
Viale delle Terme di Caracalla  
00100 Rome, Italy

### World Organisation for Animal Health

12, rue de Prony  
75017 Paris, France

### Codex Alimentarius Commission

Food and Agriculture  
Organization of the United  
Nations  
Viale delle Terme di Caracalla  
00100 Rome, Italy

