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THE WORLD TRADE ORGANIZATION (WTO) AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES (SPS)

IMPLICATIONS FOR DEVELOPING COUNTRIES

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Summary of the Agreement

1. The Agreement reaffirms the right of any government to adopt measures to protect human, animal or plant life or health, subject to the requirement that they are not misused for protectionist purposes and do not result in unnecessary barriers to international trade.
2. The SPS Agreement establishes a framework of rules and disciplines to guide the adoption, development and enforcement of sanitary and phytosanitary measures in such a way that their negative effects on trade are limited.
3. The Agreement recognizes the important contribution that international standards, guidelines and recommendations can make in this regard and encourages governments to use them as a basis for their SPS measures. In particular, reference is made to the standards and guidelines developed for food safety by the FAO/WHO Codex Alimentarius Commission (relating to food additives, veterinary drugs and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice), for animal health by the International Office of Epizootics (IOE), and for plant health by the FAO International Plant Protection Convention (IPPC).

This note has been prepared, without formal editing, as a service to exporters and industries in developing countries by the Functional Advisory Services Section, Division of Trade Services, International Trade Centre UNCTAD/GATT, 54-56 rue de Montbrillant, CH-1202 Geneva, Switzerland. Tel.: (4122) 730 01 11; cables: INTRADCEN; telex: 414119 ITC-CH; fax: (4122) 733 44 39. (Postal address: International Trade Centre UNCTAD/GATT, Palais des Nations, CH-1211 Geneva 10, Switzerland.)

4. SPS measures include laws, decrees, regulations, requirements and procedures covering, among others, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments; statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety (see figure).
5. The Agreement specifically defines such terms as SPS measures; international standards, guidelines and recommendations; risk assessment; appropriate level of SPS protection; pest-or disease-free area; and area of low pest or disease prevalence. Furthermore, it is defined that the terms "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.
6. Members are requested to harmonize their SPS measures on as wide a basis as possible, using international standards and playing an active role in the relevant international organizations such as Codex Alimentarius, IOE and within the framework of the IPPC.
7. Members should accept equivalent SPS measures of other Members when it is demonstrated that they achieve the appropriate level of SPS protection.
8. SPS measures should be based on appropriate risk assessment concerning human, animal or plant life or health, following risk assessment techniques developed by international organizations.
9. SPS measures should be adapted to the SPS characteristics of the area, taking into account the level of prevalence of specific diseases or pests, the existence of eradication or control programmes and other appropriate criteria as may be developed by relevant international organizations.
10. Concerning transparency, the Annex B of the Agreement contains provisions on information procedures concerning: (a) publication of regulations (giving sufficient time before entry into force for comments and adaptation, particularly to developing country Members); (b) enquiry points, responsible for the provision of answers to all reasonable questions from interested Members regarding SPS measures and related documents, and (c) notification procedures for new or modified SPS measures which deviate from international standards or recommendations.
 11. One single central government authority should be designated by each member as responsible for the notification procedures at national level.
 12. The WTO Secretariat, after receiving notifications, should promptly inform Members and draw the attention of developing country Members to any notification relating to products of particular interest to them.
 13. Concerning control, inspection and approval procedures (including national systems for approving the use of additives or for establishing tolerances for contaminants in food, beverages or feedstuffs and procedures for sampling, testing and certification), the Agreement establishes that such procedures should be undertaken and completed by the competent body without undue delay and in no less favourable manner for imported products than for like domestic products, the information requirements being limited to what is necessary for appropriate control and with due regard given to confidentiality of information, equitable fees, the siting of facilities, complaints and corrective action.
 14. Concerning technical assistance, Members agree to provide it to developing country Members, either bilaterally or through the appropriate international organizations. This may be in the areas of processing technologies, research and infrastructure, training and the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants to allow such countries to adjust to, and comply with, SPS measures necessary to achieve the appropriate level of SPS protection in their export markets.
 15. Where substantial investments are required in order for an exporting developing country to fulfil the SPS requirements of an importing member, the latter is to consider providing the necessary technical assistance.
 16. Concerning special and differential treatment, developing countries, and in particular the least-developed ones can be granted, upon request, such treatment by Members and by the Committee on SPS Measures, taking into account the special financial, development and trade needs. For example, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under the Agreement. Members, on the other hand, should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

17. The implementation of the Agreement is through a Committee on SPS Measures which should provide a regular forum for consultations and furtherance of its objectives, working in close contact with Codex Alimentarius, the OIE and the Secretariat of the IPPC. The Committee, in view of monitoring the process of international harmonization, should establish a list of international standards, guidelines or recommendations relating to SPS measures having a major trade impact. The list should include those international standards, guidelines or recommendations which are applied by Members as a condition for import or on the basis of which imported products conforming to these standards can enjoy access to their markets.

18. In the final provisions the Agreement gives the least developed country Members the possibility to delay for five years following the date of entry into force the WTO the application of the provisions of the Agreement with respect to their SPS measures affecting imports. Other developing country Members may delay application for two years with respect to their existing import requirements, where this is justified by a lack of technical expertise, infrastructure or resources.

How developing countries can benefit from the Agreement

19. Developing countries can benefit from the WTO SPS Agreement by using it as a means to enhance their export development efforts and, in particular, by taking appropriate advantage of its provisions concerning information, technical assistance and special and differential treatment which is granted on a priority basis to the least developed countries.

20. Furthermore, in order to benefit significantly from the Agreement, developing countries should make every effort to establish or upgrade their institutional arrangements and mechanisms related to technical information, standardization, quality assurance, technical regulations, inspection, testing, certification and accreditation, and take the necessary steps to play an active role in relevant international standardizing and other bodies, particularly the Codex Alimentarius, the IOE and the IPPC.

21. Consequently, developing countries should give priority attention to identifying their needs concerning information, standardization, testing, inspection, certification, technical regulations and participation in international related activities,

which are relevant to the products moving in their international trade or with high export potential, within the framework of this Agreement. This will permit them to clearly identify the technical assistance and the special and differential treatment needs to be proposed to the Members or to the Committee within the framework of the Agreement.

22. Furthermore, the Agreement recognizes that developing country Members may encounter special difficulties in complying with the SPS measures of importing countries and that there is a need to assist these countries in formulating and applying SPS measures in their own territories. Consequently, developing countries should apply for this assistance to be rendered.

Possible technical cooperation needs of developing countries

23. The main technical cooperation requirements are within the following areas:

- Establishment of the notification mechanism
- Establishment of the enquiry point
- Establishment or improvement of national standardizing bodies, particularly in relation to SPS standards

Establishment of testing facilities, particularly in relation to food safety and plant health

Establishment of inspection and certification bodies

Establishment of accreditation mechanism

Effective participation in international standardization activities, particularly in ISO, CODEX Alimentarius and OIE activities

- Effective participation in international organizations related to SPS regulations
- Participation in training programmes on the above mentioned subjects, at international level

Implementation of training programmes and awareness creation programmes at national level

- Implementation of information services to inform exporters on SPS measures applicable in target markets

24. The ITC, mainly through its services related to agricultural products and to export quality management, is in a position to offer assistance to developing countries in most of the above mentioned areas,

provided that funds are allocated for this purpose through specific projects at national, regional, sub-regional and international levels. These projects should be prepared and implemented in close collaboration with the WTO, the FAO/WHO Codex Alimentarius, the IOE, the Secretariat of the IPPC and other selected international, regional and national organizations in related fields.

Useful addresses

World Trade Organization (WTO)
Agriculture and Commodities Division
Rue de Lausanne 154
CH-1211 Geneva 21
Switzerland
Tel.: (41-22) 739 51 11
Fax: (41-22) 739 57 60

Office international des epizooties (OIE)
(World Organization for Animal Health)
12 rue de Prony
75017 Paris
France
Tel.: (33-1) 44 15 18 88
Fax: (33-1) 42 67 09 87

FAO/WHO Codex Alimentarius
Commission
Joint Office:
Via delle Terme di Caracalla
00100 Rome
Italy
Tel.: (39-6) 52 251
Fax: (39-6) 52 254 593

Secretariat of the International
Plant Protection Convention (IPPC)
FAO, Plant Protection Service
Via delle Terme di Caracalla
00100 Rome
Italy
Tel.: (39-6) 5225 3588
Fax: (39-6) 5225 6347

Figure

SANITARY AND PHYTOSANITARY MEASURES

Laws
Decrees
Regulations
Requirements
Procedures

Aimed at protecting human, animal or plant life or health

Covering:

End product criteria
Processes and production methods
Testing
Inspection
Certification
Approval procedures
Quarantine treatments
Sampling procedures
Risk assessment
Food safety related packaging and labelling requirements

SPS measures:

- Should not be used for protectionist purposes
- Should not result in unnecessary barriers to trade.

Products concerned:

Foods (fresh, processed), beverages, feedstuffs, animals (including fish and wild fauna), plants (including forests and wild flora) and related pesticide residues, veterinary drugs, additives and contaminants.