



The Integration of WTO Agreements into National Legislation: Case of the SPS Agreement

Lalaina Ravelomanantsoa
Legal Officer
Development Law Branch
FAO Legal Office



QUICK REMINDER ON THE SPS AGREEMENT

Objectives

- Quick Reminder: SPS Agreement
- SPS issues: The implementation of the SPS Agreement in national legislation
- Design of national legislation in SPS areas
- Suggestions and recommendations: mainly on legal reforms processes.

Scope of the SPS Agreement

- The agreements covers **four** scenarios (“SPS Measures”):
 - **First**: Protection of human or animal life or health, from risks arising from additives or contaminants, toxins or disease-causing organisms in their **food**.
 - **Examples**: EU Pesticide levels (MRLs) on fruits and flowers; poultry contaminated with salmonella; restrictions on the use of veterinary drugs and hormones on certain livestock

Scope of SPS Agreement...

- Second: Protection of human life from plant or animal carried diseases.
- Examples: banning the import of livestock products because of incidence of foot-and-mouth disease...such as the ban 2 years ago by Saudi Arabia of meat and meat products from the horn of Africa (especially Somalia) due to “occurrence” of Rift Valley fever.

Scope of the SPS Agreement

- **Three:** Protection of animal or plant life from the introduction of pests, diseases or disease-causing organisms.
- **Example:** restrictions on fruit from areas plagued by fruit fly...such as recent dispute b/n. US and Japan over apples from Washington and Oregon states.
- **Four:** Protection of a country from damage caused by the entry, establishment or spread of pests.
- **Example:** protection from the undesired importation of certain weeds and pests. “Alien Invasive Species” e.g. the water hyacinth.

Key Provisions in the Agreement

- Harmonization: Article 3 encourages Members to harmonize their SPS measures on as wide a basis as possible.
- Use of international standards, guidelines and recommendations based on scientific evidence is encouraged.
- Standard setting organizations provide these benchmarks: Codex, IPPC, OIE. The adoption of their standards is voluntary.

Key SPS provisions...

- Adoption of international standards is voluntary but such adoption is deemed compliance with SPS Agreement.
- Countries are allowed to impose stricter standards if they have scientific justification.
- Countries can decide not to use international standards but must be based on a defensible and proper risk assessment.

How are these provisions reflected in national legislation...

- Regarding plant health:
 - ❖ National legal framework on plant protection
 - ❖ Implementation of the IPPC

- Regarding food safety:
 - ❖ National legal framework on food safety

- Regarding animal health:
 - ❖ National legal framework on animal health

- ❖ Others: Feed safety, fisheries ...



FOOD SAFETY LEGISLATION

Elements of a National Food Control System

- *Food Law and Regulations*
- *Food Control Management*
- *Inspection Services*
- *Laboratory Services: Food Monitoring and Epidemiological Data*
- *Information, Education, Communication and Training*

Elements of a food law

- Basic provisions (+ regulations)
- Institutional arrangements
- Powers board
 - regulatory
 - advisory
 - enforcement
- Substantive provisions

Substantive legal provisions

- **Licensing** of food businesses (producers, importers, exporters, retails)
 - **Traceability**
 - **Hygiene** (facilities, handling, packaging, transport, storage and distribution)
 - **Labeling** and advertising
 - **Import** and **export**
 - **Certification** and **quality control**
- Additives, residues, contaminants, adulteration
 - Specific kinds of foods
 - GMOs, novel and functional foods
 - Animal feed or seeds
 - Drinking water
 - Emergency procedures (monitoring/ early warning)
 - Liability provisions, offences and penalties
 - Transitional provisions



ANIMAL HEALTH LEGISLATION

Overview of Chapter 3.4 Veterinary Legislation

General matters

- Introduction & objectives
 - Definitions
 - General principles
 - The drafting of veterinary legislation
-

Specific matters

- Competent authorities
- Veterinarians & veterinary para-professionals
- Laboratories in the veterinary domain
- Health provisions relating to animal production
- Animal diseases
- Animal welfare
- Veterinary medicines & biologicals
- Human food production chain
- Import & export procedures & veterinary certification

Elements of an AH Legal framework

- Scope
- Definitions
- Objectives
- Competent Authority (functions)
- Principles of veterinary health
- Epidemiological surveillance
- Zoonosis.
- Control and eradication of diseases
- Quarantine. Import/export
- Compensation
- Contingency
- Delegation
- Inspectors
- Infringements/Sanctions
- Prosecution
- Appeals
- Implementation
- Regulations
- Final provisions



PLANT HEALTH LEGISLATION

The International Plant Protection Convention

- *Securing common and effective action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control, the contracting parties undertake to adopt the legislative, technical and administrative measures –*

Art 1

- *“ Each contracting party shall assume responsibility, without prejudice to obligations assumed under other international agreements for the fulfillment within its territories of all requirements under this Convention” -*

Art 2

Elements of a Plant Protection Legislation

- Preliminary provisions (objectives, interpretation)
- Administration (NPPO, Committee, Inspections)
- Control of pests (surveillance, control measures)
- Imports (permit requirements)
- Export, re-export, transit (Export certificate)
- Enforcement (notifications)
- Offences
- Miscellaneous (regulations)

Legislative drafting process

- Transparency
 - Legislation should be inventoried and be readily accessible
 - Communicated by competent authorities to stakeholders
- Consultation
 - Competent Authorities, technical experts and legal experts required for drafting
 - Participation of stakeholders is essential for drafting effective legislation

***Thank you for your
attention!***



***for a world without
hunger***

www.fao.org