



The SPS Agreement Basic Provisions

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SPS Agreement

Article 2.1

“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.”

SPS Measures

Definition - Annex A

A measure taken to protect:

Human or
animal health



risks arising from additives,
contaminants, toxins or disease
organisms in food, drink, feedstuff

Human life



plant- or animal-carried diseases

Animal or
plant life



pests, diseases, disease-causing
organisms

Territory of
Member



other damage caused by entry,
establishment or spread of pests

Examples:

A measure to protect:

The territory of
a country



other damage from
entry or spread of pests



Prevent entry
of Zebra
mussels via
ballast
water



regulate
seeds to
avoid entry
of weeds



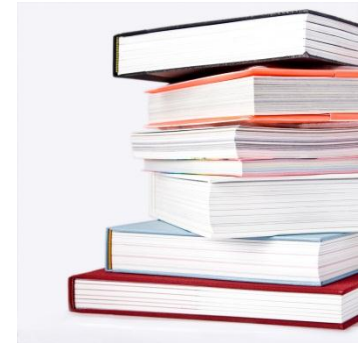
Important footnote (#4):



- “animals” include fish and wild fauna
- “plants” include forests and wild flora
- “pests” include weeds
- “contaminants” include residues of pesticides and veterinary drugs, as well as extraneous matter

All types of measures with these purposes, including:

- ✓ product criteria
- ✓ quarantine measures
- ✓ processing requirements
- ✓ certification
- ✓ inspection
- ✓ testing
- ✓ health-related labeling



It is not the type of measure that counts, nor the products involved, but rather its objective!

Key Provisions of the SPS Agreement

1. Non-discrimination
2. Scientific justification
 - harmonization (use of international standards)
 - risk assessment
 - consistency in level of protection
 - least trade-restrictiveness
3. Equivalence
4. Regionalization (pest- or disease-free areas)
5. Transparency (publication/notification/enquiry points)
6. Technical assistance/special treatment
7. Control, inspection and approval procedures

Scientific justification

Harmonization

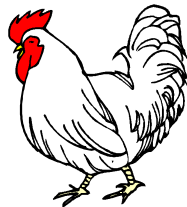
Article 3

Standard-setting organizations

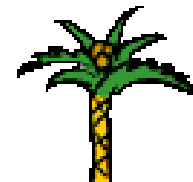
food safety
CODEX



animal health
OIE



plant health
IPPC



Codex = Joint FAO/WHO Codex Alimentarius Commission

OIE = World Organisation for Animal Health

IPPC = International Plant Protection Convention (FAO)

Scope of SPS Agreement (WT/DS291/R)

7.240 ... in the context of the *SPS Agreement* the term "pest" should be understood as referring to an animal or plant which is destructive, or causes harm to the health of other animals, plants or humans, or other harm, or a troublesome or annoying animal or plant.

Scope of SPS Agreement (WT/DS291/R)

7.247. In such situations [where GM plants grow where they are undesired], due to a potential competitive advantage, persistence and invasiveness, GM plants may crowd out or eliminate other plants. Competitive pressure from GM plants may also affect the genetic diversity of remaining plant populations, putting at risk the survival of certain plant species. As these potential effects of GM plants impact negatively on the ability of other plants to exist and survive in the affected area, we think they can be considered to cause harm to the "life or health" of other plants.

Scope of SPS Agreement (WT/DS291/R)

7.370 The residual category of "other damage" is potentially very broad. In our view, "other damage" could include damage to property, including infrastructure (such as water intake systems, electrical power lines, etc.). In addition, we think "other damage" could include economic damage (such as damage in terms of sales lost by farmers). The dictionary defines the term "damage" as "physical harm impairing the value, usefulness, or normal function of something" and "unwelcome and detrimental effects", or "a loss or harm resulting from injury to person, property, or reputation". These definitions cover harm resulting in a reduction of economic value, adverse economic effects, or economic loss. We note that the text of Annex A(1)(d) refers to "other damage within the territory", and not to "other damage to humans, animals or plants". ... It is clear, however, that only damage from the entry, establishment or spread of "pests" can qualify as "other damage" within the meaning of Annex A(1)(d).