

Principles of Science-Based Regulation and International Trade

Supporting the global foundations for food safety and exchange of goods

Each year, over \$1.5 trillion in agri-food products is traded across countries and regions. This is double the amount in 1995 and, as the United Nations Food and Agriculture Organisation has stated, “*global trade and well-functioning markets lie at the heart of development.*”¹

Trade enables producers to provide the basic staples necessary for food and nutrition security and allows consumers to enjoy goods that were once limited to only certain parts of the globe. Canadian canola can offer cooking oils to homes throughout Europe, French wines may now be found in cellars across Asia, and New Zealand lamb occupies shelf space in supermarkets worldwide.

This global agri-trade environment is built on a foundation of international rules and norms that enable development of national regulations. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement) in the World Trade Organization (WTO) explicitly recognize the right of member countries to implement regulations to protect human, plant and animal health and the environment.

At the same time, they require that regulations be based on science and that risk management be proportionate and non-discriminatory. Otherwise, overly restrictive regulations can disrupt trade, distort markets, stifle innovation and deprive farmers of the safe, effective tools necessary for sustainable, safe food production that supports public health.

Striking this balance is delicate process that all nations must consider. The following five principles provide a clear, consistent philosophy that can support countries in doing so.

Guiding Principles for Science-Based Regulation & International Trade

- **Regulation is essential:** Science-based regulation of agri-food and related products, including veterinary medicines, helps ensure their quality, safety and efficacy in the global marketplace. Regulations can sometimes restrict trade, which means it is essential to employ science-based decision making and proportionality when developing rules to avoid unnecessary restrictions.
- **Agreements improve trade environments:** International trade agreements can aid in establishing and enforcing clear, predictable regulatory decisions that respect sovereignty and protect populations while avoiding disruptions to trade between nations and/or regions.
- **Trade bodies provide the foundation:** Global trade bodies like the WTO play a crucial role in enabling adoption and adherence to reliable, science-based international standards and rules. These risk-based rules help countries improve their food safety and animal care, while enhancing the social and economic gains that international trade can deliver, which is why sound, well-functioning international trading bodies are essential.
- **Cooperation delivers dividends:** Greater regulatory cooperation, often facilitated by trade agreements or bodies, can increase access to innovation, save government resources, and strengthen protections for consumers and environment.
- **Risk-based approaches create balance:** Evidence-based science and risk assessment should be the norm when measures are introduced that may affect trade. Risk-based regulations are the most reliable way to protect human and animal health without unduly restricting trade. In comparison to hazard-based strategies, risk-based approaches foster innovation, protect consumers and helps producers access safe, effective technologies, while considering all factors relevant to safety.

Adhering to these principles can strengthen the foundations underpinning the global agri-trade system, allowing consumers to continue to reap the benefits of cross-border trade while helping protect human, animal and plant health.

¹ <https://www.fao.org/turkey/news/detail-news/en/c/1309595/>

Annex: Overview of key SPS and TBT Agreement Provisions

What is the Sanitary and Phytosanitary (SPS) Agreement?

The SPS agreement is an international treaty within the WTO addressing food safety. It covers measures designed to:

- Protect human or animal life from risks associated with food additives, medicines, contaminants, toxins or disease-causing organisms in foods, feeds, beverages;
- Protect human life from diseases carried by animals, plants or products thereof;
- Protect animal life, including fish and wild fauna, and plant life, including forests and wild flora, from the entry, establishment or spread of pests, diseases, and disease-carrying or disease-causing organisms; and
- Protect a country from damage within the territory from entry, establishment or spread of pests.

SPS measures include end-product standards; requirements regarding processes and production methods; testing, inspection, certification and approval procedures; quarantine requirements; and packaging and labeling requirements directly related to food safety. Technical regulations that do not fall under the SPS Agreement are covered by the Technical Barriers to Trade (TBT) Agreement (see below).

Most measures that affect trade in animals treated with veterinary pharmaceuticals or produce from treated animals and most restrictions on veterinary medicine marketing related to food safety or animal health, fall under the SPS Agreement.

What are Member State rights and obligations under the SPS Agreement?

Article 1 of the SPS Agreement explicitly provides WTO members with the right to adopt trade measures 'necessary to protect human, animal or plant life or health'. Members may choose level of protection they deem appropriate within the remit of the WTO rules.

However, since SPS measures can affect trade, the Agreement also lays down a series of obligations which are designed to allow members to achieve their public health, plant and animal health, and environmental objectives while minimizing trade disruptions. Under the Agreement, SPS measures:

- Must be based on scientific principles and evidence (Article 2.2) and a risk assessment (5.1, 5.2);
- Must not be discriminatory (2.3) and no more trade-restrictive than necessary (5.6);
- Must not make arbitrary or unjustifiable distinctions in levels of protection if such distinctions result in discrimination or disguised barrier to trade (5.5);
- Must base measures on international standards (3.1) unless deviation is scientifically justifiable.

Members may implement provisional or precautionary measure in cases where scientific evidence is insufficient, when four conditions are met: scientific evidence must be insufficient, the measure must be temporary, the measure must be based on available scientific information; and the member must seek actively to obtain the data necessary to do a proper risk assessment (5.7).

What are Member State rights and obligations under the Technical Barriers to Trade (TBT) agreement?

As noted above, technical regulations that do not fall under the SPS Agreement are covered by the TBT Agreement (see Article 1.5). Like the SPS Agreement, the TBT Agreement explicitly recognizes the right of WTO members to establish technical regulations (recital seven), while laying down rules to ensure that such measures are not unduly trade restrictive.

Under the Agreement, member must ensure that TBT measures are not discriminatory (2.1) and do not create unnecessary obstacles to trade (2.2). They must also ensure that measures are not more trade-restrictive than necessary to fulfill a legitimate objective, taking into account risks that non-fulfillment of the objective would create. In assessing those risks, members must take into account available scientific and technical information (2.2).

Members must base regulations on international standards, except where standard would be ineffective or inappropriate (2.4). The Agreement also establishes procedures for assessing conformity with regulations (5), as well as transparency and notification obligations (2.5, 2.9).