

Adapting veterinary infrastructures to meet the challenges of globalisation and the requirements of the World Trade Organization Agreement on Sanitary and Phytosanitary Measures

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Summary

To maximise the benefits of globalisation, countries and their stakeholders must become familiar with and adhere to the rights and obligations set out by the World Trade Organization under the Agreement on Sanitary and Phytosanitary Measures. Furthermore, for trade in animals and animal products, they must adhere to the standards, guidelines and recommendations established by the OIE (World organisation for animal health), which also encourages participation of countries in the standard-setting process. Only after implementing these requirements and strengthening veterinary infrastructures and surveillance and monitoring systems, will countries be able to fully benefit from the new international trade rules.

Keywords

Dispute – Globalisation – Standard – World Organisation for Animal Health – World Trade Organization Agreement on Sanitary and Phytosanitary Measures.

Introduction

Globalisation is a force that is revolutionising international trade and in particular that of animals and animal products. This increase in agricultural trade shows promise for improving the economies of countries and their populations world-wide. During the 1990s, the international community made significant progress in improving fairness and transparency in international trade. As a result, the safety of public, animal and plant health was ensured and unjustified impediments to trade were minimised. However, to fully benefit from new trade opportunities, countries will have to adapt to new rules. There will be a demand for closer collaboration and interdependence between the private and public sectors. The future of governments and the competitiveness of their industries will depend on how well the structures and operations can adapt to meet the requirements set out by the World Trade Organization (WTO) and the Agreement on Sanitary and Phytosanitary Measures (SPS) (5). For protection against animal diseases and zoonoses, the WTO recognises the standards set out by the OIE (World organisation for animal health) as the science-based recommendations for international trade (4).

The Sanitary and Phytosanitary Agreement

Historically, the General Agreement for Tariffs and Trade (GATT) worked on the reduction and elimination of tariffs and subsidies in trade. During the Uruguay Round of the 1980s and early 1990s, the GATT focused on agriculture and particularly the sanitary aspects of agricultural trade. One of the most significant outcomes of the Uruguay Round was the transformation of the GATT into the WTO and the signing, in 1994, of the SPS Agreement. This Agreement sets out the legal framework for international trade that is safe for public, animal and plant health. As the WTO has no scientific or technical competence, the organisation recognises and relies on other relevant standard-setting organisations. For animal health and zoonoses, the WTO recognises the OIE standards, guidelines and recommendations as the basis for sanitary measures applied in countries world-wide.

The structure of the SPS Agreement distinguishes between rights, obligations, special provisions and dispute settlement

procedures. Under rights, the WTO recognises that each country has the sovereign right to determine a given level of protection when establishing sanitary measures on imports. However, these rights are accompanied by clear obligations. If an importing country chooses to deviate from existing international standards and recommendations when establishing sanitary measures, the country has to justify these actions through a transparent and scientifically-based risk analysis process. Countries adhering to international standards and recommendations when developing import policies do not have to justify these through risk analysis. Countries must also ensure that the sanitary measures are applied only to the extent required to protect animal health and do not constitute arbitrary or unjustified discrimination between Members. Sanitary measures applied on imports cannot be more restrictive than those applied at a national level.

Special provisions of the Agreement

Among the more important special provisions of the SPS Agreement, those on harmonisation, equivalence, assessment of risk and appropriate level of protection, regionalisation, transparency and notification must be mentioned.

Harmonisation

Possibly the most important of all the special provisions of the Agreement is the one on harmonisation. The Agreement encourages Members to harmonise their sanitary measures as widely as possible, by basing them on international standards, guidelines and recommendations, where these exist. This confers extreme importance on the standards set by the OIE.

Sanitary measures that conform to international standards are deemed necessary to protect public and animal health or life and are presumed to be consistent with other relevant provisions of the Agreement. This means that countries which base their import decisions or their sanitary measures on existing OIE standards are not required to provide any additional justification. However, countries can introduce sanitary measures that result in a higher level of protection than those achieved by applying international standards, as long as these can be justified by a scientific risk assessment.

In addition to the international standards on animal health and zoonoses set out by the OIE and those for public health established by the Codex Alimentarius, regional and national guidelines exist for the preparation of food. While these are provided to local authorities by the Codex Alimentarius as food safety guidelines, they should not be confused with the international standards mentioned above. There is no two-tier system of standards for international trade.

Equivalence

The Agreement indicates that countries shall accept the measures of other Members as equivalent, even if these differ

from their own and from those applied by others trading in the same product. To do this, the exporting country must objectively demonstrate to the importing country that the proposed measures achieve the required level of protection. The intent of this provision is to encourage trading partners to focus their attention on the desired objectives of the measure rather than to compare measures for similarities.

Assessing risk and determining appropriate levels of sanitary protection

The Agreement indicates that Members must ensure that their sanitary measures are based on an assessment, appropriate for the circumstances, taking into account the risk assessment techniques developed by the relevant standard-setting organisations, the OIE in this case. This process is aimed at minimising negative trade effects, must utilise all available scientific evidence and must be done in a consistent manner. Members must take into account relevant economic factors such as:

- the potential damage in terms of loss of production or sales in the event of the entry, establishment and spread of disease
- the cost of control or eradication
- the relative cost-effectiveness of alternative approaches to limiting risks.

However, economic impacts on national producers, such as loss of revenue resulting from competition from imports, cannot be considered in the risk determination.

Regionalisation

The Agreement indicates that sanitary measures must be adapted to the geographical and ecological characteristics of an area or region, taking into account the level of prevalence of a disease. This section specifies that Members must recognise disease-free areas and areas of different health status within the territory of a country. However, the exporting country is responsible for providing the necessary evidence that objectively demonstrates to an importing country that such an area is safe, and is likely to remain so. For this purpose, reasonable access is to be given to the importing country for inspection and testing. The OIE provides detailed recommendations on how to apply these provisions of regionalisation and compartmentalisation and offers equivalent recommendations to deal with specific animal disease risks.

Transparency and notification

The Agreement indicates that Member countries are required to notify the WTO about any changes to their sanitary measures, such as changes in import regulations, in a timely manner. This means that, except for in urgent circumstances, each country must inform the WTO about the changes prior to the measures coming into force; early enough for exporting countries to adapt their products to meet the new requirements. Countries

which base their import measures on international standards do not have to notify the WTO. Each country must also establish a single enquiry point responsible for providing answers to all reasonable questions regarding regulatory changes and specific sanitary requirements.

The Sanitary and Phytosanitary Committee

The WTO-SPS Agreement also called for the formation of an SPS Committee charged with assisting and monitoring the implementation of the Agreement. This Committee was established in 1995 and meets regularly, three to four times per year. The work of the Committee has included the development of guidelines for interpreting certain aspects of the Agreement, such as consistency, equivalence, and notification. The Committee has also become an excellent forum for countries who want to report on trade disruptions, providing the accused country with the opportunity to explain a given decision and to reconsider the trade-restrictive actions taken. Often, the trade restrictions are resolved between meetings and lead to the reporting of a successful resolution by both parties at a subsequent meeting. The OIE participates in these meetings in an advisory capacity, providing relevant information on existing standards during the discussion on trade disruptions, thereby preventing misinterpretation of international standards. The SPS Committee meeting is also able to identify deficiencies in international standards, or areas where the absence of specific standards is causing significant trade disruptions. This information is considered by the standard-setting organisations and used when setting priorities in future work programmes.

Dispute settlement procedures

When considering the risk posed by animal diseases in trade, legitimate animal health risks must be differentiated from fabricated sanitary risks. The latter are no more than politically motivated protectionist measures and unjustified trade restrictions, hidden behind the pretext of protecting the health of the national animal population. Among the legitimate animal health risks, a distinction must be made between those that are trade-related and those that, while being genuine, should not be considered as risk factors in trade.

When trade impediments remain unresolved, countries can proceed with more elaborate approaches to the settlement of disputes. When examining alternative mechanisms for resolving differences, the first to be considered should be the existing trade mediation procedure within the OIE. Here, once again, the OIE can play a significant role in assisting Member Countries in the prevention or rapid resolution of trade disruptions. Disputing countries can request a technical mediation from the Director General of the OIE. This is a confidential and non-binding approach for settling disputes, based on the mediation and advice provided by a panel of technical experts. The process has several advantages, being less

resource-demanding than the formal WTO process and allowing for face-saving win-win solutions based on proposed additional technical measures that may not have previously been considered. At the end of the process, the recommendations from the expert panel are communicated by the Director General to both parties. Although this process is confidential and non-binding, should the case eventually result in a formal dispute at the WTO, the documentation from this mediation, and the experts conducting the mediation, can be used in the formal WTO process.

An alternative but similar approach to the OIE dispute mediation is offered by the SPS Committee under Article 12:2. The Agreement states that the SPS Secretariat or the Chairman of the Committee can serve as a mediator in case of a trade dispute, provided that the mediation is requested by all affected parties. This is also a voluntary process, not legally binding, the outcome of which is strictly confidential. Much like the OIE mediation, the process has the advantage of being simple and does not require extensive legal preparation or complicated legal argument. Furthermore, the parties are encouraged to examine options which may have not been fully considered. However, this mediation has the disadvantage of not focusing as much on the technical aspects of the dispute, as it lacks the technical expertise of the OIE. Should the countries not reach an agreement under this mediation, the affected country can then proceed with the formal dispute resolution process by requesting the formation of a panel by the WTO. This approach, however, is lengthy, time consuming and extremely costly, which discourages all but very developed countries from using the process. If, under the formal WTO dispute process, the nature of a dispute is related to animal health or zoonoses, the standards and experts for the panel are provided by the OIE.

OIE standards

To benefit from the provisions of the WTO SPS Agreement when conducting international trade in animals and animal products, a country must take full advantage of the OIE standard-setting process. A high quality Veterinary Service and a robust surveillance and monitoring system is also required to provide assurances of the animal health status of the country and to minimise and manage risks. However, most Veterinary Services have recently experienced decreases in their infrastructure due to budgetary cuts and shifts in priorities from animal health to food safety. Some Veterinary Services have been the victims of their own success: after eradicating certain diseases their funding has been reduced. Veterinary authorities must therefore look for alternative methods of strengthening their Veterinary Services. One such method which has proved effective in the past is the accreditation of private veterinarians and para-veterinarians for specific functions.

Furthermore, countries should actively participate in all the major objectives of the OIE. The more important ones are listed below, as follows:

- ensuring transparency in the reporting of the worldwide animal health status
- safeguarding world trade in animals and animal products by establishing standards
- contributing to expertise and encouraging solidarity in the control and eradication of animal diseases
- improving overall veterinary infrastructures.

The standards, guidelines and recommendations set by the OIE can be found in several official documents. The *Terrestrial Animal Health Code (Terrestrial Code)* (4) contains the standards on diseases of mammals, birds and bees. The *Manual of Diagnostic Tests and Vaccines for Terrestrial Animals* (1) complements the *Terrestrial Code*. The *Aquatic Animal Health Code (Aquatic Code)* (2) contains the standards on diseases of fish, molluscs and crustaceans and is complemented by the *Manual of Diagnostic Tests for Aquatic Animals* (3).

These Codes contain, in addition to disease-specific standards, recommendations on related topics such as import risk assessment, regionalisation, surveillance and monitoring, evaluation of veterinary services, and obligations and ethics in international trade. In its work plan, the Code Commission has identified the following priorities for the up-coming year: guiding principles in animal welfare, a review of existing disease chapters for the inclusion of food safety recommendations and further harmonisation of the *Terrestrial Code* with the *Aquatic Code*.

Countries and their stakeholders can improve their participation and maximise their benefits in international trade by working closely and more strategically with their OIE Delegates. Draft standards and texts are distributed during the course of the year by the OIE to the Delegates. These Delegates and their Veterinary Services can then set up mechanisms for

sharing these with interested stakeholders and specialist interest groups, and then receive input to be included in the national response to the OIE. Comments on OIE documents should focus on the standards (disease chapters) identified by the OIE for review and adoption. While standards are only adopted during the International Committee meeting in May of each year, the most profitable opportunity for submission of comments is in response to the Code Commission reports during the course of the year. When proposing changes, countries are encouraged to provide the OIE with an appropriate scientific justification. This justification can certainly expedite the review process, as otherwise the Code Commission has to identify the scientific expertise and the published scientific evidence before considering the request for change. Countries must keep in mind that these proposed changes have to be trade-neutral, meaning that these standards have to make sense whether one is approaching the subject as an importer or an exporter.

Conclusion

To truly maximise the benefits of globalisation, all trading partners have to clearly commit to WTO rules. There has to be a clear understanding of the provisions of the SPS Agreement. The standards, guidelines and recommendations of the OIE must be understood by all stakeholders and must be applied by countries in a transparent manner when establishing sanitary measures for international trade. In addition, infrastructure investment costs need to be considered, countries have to examine or determine their weaknesses and strengthen their veterinary infrastructures to really profit from unrestricted trade benefits. All trading partners and donor organisations need to focus on these broader structural issues, otherwise the same well-intentioned provisions of the Agreement will become the easiest excuse for importing countries to restrict trade.



Adaptation de la structure des services de santé animale pour faire face aux défis de la mondialisation et aux exigences de l'Accord de l'Organisation mondiale du commerce sur l'application des mesures sanitaires et phytosanitaires

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Résumé

Les pays et leurs partenaires ne pourront profiter au mieux des bénéfices de la mondialisation sans d'abord bien connaître et respecter leurs droits et obligations aux termes de l'Accord de l'Organisation mondiale du commerce sur

l'application des mesures sanitaires et phytosanitaires. S'agissant des échanges commerciaux d'animaux et de produits d'origine animale, les parties intéressées doivent en outre observer les normes, les lignes directrices et les recommandations arrêtées par l'OIE (Organisation mondiale de la santé animale), qui encouragent d'ailleurs la participation de tous les pays à l'élaboration des normes. Les pays ne pourront véritablement recueillir les bienfaits des nouvelles règles régissant les échanges commerciaux internationaux qu'après avoir adopté ces prescriptions et renforcé à la fois les infrastructures vétérinaires et les systèmes de surveillance et de suivi sanitaire continus.

Mots-clés

Accord de l'Organisation mondiale du commerce sur l'application des mesures sanitaires et phytosanitaires – Différend – Mondialisation – Norme – Organisation mondiale de la santé animale.



Adaptación de la estructura de los servicios de sanidad animal frente a los desafíos de la globalización y a los requerimientos del Acuerdo sobre Medidas Sanitarias y Fitosanitarias de la Organización Mundial del Comercio

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Resumen

Para obtener el máximo beneficio de la globalización, los países y sus interlocutores deben conocer y atenerse a los derechos y obligaciones previstos en el Acuerdo sobre la Aplicación de Medidas Sanitarias y Fitosanitarias de la Organización Mundial del Comercio. Además, por lo que respecta al comercio de animales y productos de origen animal, deben cumplir con las normas, directrices y recomendaciones establecidas por la OIE (Organización mundial de sanidad animal), organismo que alienta asimismo la participación de los países en el proceso de elaboración de normas. Sólo tras satisfacer esas condiciones y reforzar las infraestructuras veterinarias y los sistemas de vigilancia y monitoreo podrán los países beneficiarse plenamente de las nuevas reglas del comercio internacional.

Palabras clave

Acuerdo sobre la Aplicación de Medidas Sanitarias y Fitosanitarias de la Organización Mundial del Comercio – Desacuerdo – Globalización – Normas – Organización Mundial de Sanidad Animal.



References

1. OIE (World organisation for animal health) (2000). – Manual of Diagnostic Tests and Vaccines for Terrestrial Animals (formerly entitled Manual of Standards for Diagnostic Tests and Vaccines). 4th Ed. OIE, Paris, 957 pp.
 2. OIE (World organisation for animal health) (2003). – Aquatic Animal Health Code. 6th Ed. OIE, Paris, 165 pp.
 3. OIE (World organisation for animal health) (2003). – Manual of Diagnostic Tests for Aquatic Animals. 4th Ed. OIE, Paris, 358 pp.
 4. OIE (World organisation for animal health) (2003). – Terrestrial Animal Health Code, 12th Ed. OIE, Paris, 515 pp.
 5. World Trade Organization (1995). – The result of the Uruguay Round of multilateral trade negotiations: The legal texts: Agreement on the Application of Sanitary and Phytosanitary Measures, Geneva, 69-84.
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