

Biotech in Context: Trade Perspectives and Obligations

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WTO Agreement on the Application of Sanitary and Phytosanitary Measures

Article 2.3

Members shall ensure that their sanitary and phytosanitary measures **do not arbitrarily or unjustifiably discriminate between Members** where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a **disguised restriction on international trade**.

SPS Agreement

Article 5.1

Members shall ensure that their **sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks** to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

SPS Agreement

Article 5.6

When establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that **such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection**, taking into account technical and economic feasibility.

SPS Agreement

Article 3.2

Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and **presumed to be consistent with the relevant provisions of this Agreement** and of GATT 1994.

SPS Agreement

Summary of Key Principles:

- Non-discriminatory and not disguised as a barrier to trade
- Based on risk assessments and international standards
- Not more restrictive than necessary to achieve objective
- Look to international standards