New Trade Facilitation Obligations in the SPS Area

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The study

https://www.kommers.se/In-English/Publications/2017/New-Trade-Facilitation-obligations-in-the-SPS-area/
PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING
THE WORLD TRADE ORGANIZATION

DECISION OF 27 NOVEMBER 2014

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Recalling the General Council Decision to commence negotiations on the basis of the modalities set out in Annex D to that decision, adopted on 1 August 2004, as well as the Ministerial Decision of 7 December 2013 to draw up a Protocol of Amendment to insert the Agreement on Trade Facilitation into Annex 1A of the WTO Agreement (the "Protocol");
Stepwise implementation for developing countries

A Direct implementation

B Implementation from chosen date

C Implementation from chosen date + technical assistance
New TFA – what is it all about?

✓ Reduce inefficiencies
✓ Control procedures and information requirements
✓ Mainly directed towards customs authorities
✓ Also applicable to ”SPS authorities” at the border
✓ ”Modernizing trade”
What do SPS-authorities typically do at the border?

- Documentary checks
- Visual inspection
- Additional measures
  - Sampling, Testing
  - Quarantine, Detention
  - Treatments, Destruction
“…nothing in this agreement shall be construed as diminishing the rights and obligations of Members under the Agreement on the Application of Sanitary and Phytosanitary Measures”

Art. 24 Final Provisions § 6 of TFA
Structure of the TFA

SECTION I
12 articles approx 40 measures

SECTION II
Special and Differential Treatment For DCs and LDCs

SECTION III
Institutional Arrangements (TF Committee)
Which articles concern SPS measures?

How many SPS "components" can be found in these articles?

Which components are already present in SPS Agr?

Which shall requirements are ALL new?

Which components are SHALL requirements?

Is wording reinstated or is provision developed?

How categorize component?

What was analysed in this study?
Categorization of the 25 SPS components in TFA

- Simplification
- Transparency
- Standardization
- Harmonization
- Coordination
Which SPS components in the TFA are strictly requiring that Members *SHALL* do something?

16 new *SHALL*-requirements!

<table>
<thead>
<tr>
<th>Obligation</th>
<th>Category</th>
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<tbody>
<tr>
<td>Ensure that SPS border controls are risk based</td>
<td>HARMONIZATION</td>
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<tr>
<td>Perform regular review and streamlining of formalities and documentary</td>
<td>STANDARDIZATION</td>
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<td>requirements</td>
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<tr>
<td>Perform periodical review of fees and charges</td>
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<tr>
<td>Ensure that procedures and document requirements are applied in a</td>
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<td>consistent and uniform manner throughout the country</td>
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<tr>
<td>Consult with traders or other stakeholders regulations that affect</td>
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<tr>
<td>movement, release and clearance of goods</td>
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<tr>
<td>Cooperate and coordinate customs and SPS border authorities’ activities</td>
<td>COORDINATION</td>
</tr>
<tr>
<td>Cooperate with neighbouring country’s customs and SPS border authorities</td>
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<td>to extent possible, if shared border</td>
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<tr>
<td>Provide through the internet a description of procedures taking place at</td>
<td>TRANSPARENCY</td>
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<tr>
<td>the border</td>
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<tr>
<td>Publish information on fees and charges, and allow time between publication</td>
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<td>and entry into force</td>
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<tr>
<td>Provide explanation to importer for delay of inspections of perishable</td>
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<tr>
<td>goods to extent practicable</td>
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<tr>
<td>Publish information on suspension of increased inspection frequency, or</td>
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<td>inform importer or authorities, and inform importer on detention of goods</td>
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<td>Allow for submission of SPS documentation prior to arrival of consignments</td>
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<tr>
<td>Establish procedure whereby trading companies can apply for expedite</td>
<td>SIMPLIFICATION</td>
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<td>release of at least air cargo</td>
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<tr>
<td>Ensure that priority is given to perishable good when inspections are</td>
<td></td>
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<td>scheduled</td>
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<tr>
<td>Arrange for or allow importer to arrange for proper storage facilities at</td>
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<tr>
<td>the border for perishable goods</td>
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<tr>
<td>Pre-shipment inspections for SPS purposes should be accepted</td>
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<tr>
<td>Allow importer to return rejected consignments, or send them to other</td>
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<td>destination, within reasonable period of time</td>
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</tbody>
</table>
Review formalities & fees and uniform application

1. Review formalities and document requirements
2. Ensure consistent and uniform application throughout country
3. Periodically review fees and charges
Consult, coordinate & cooperate

4. Consult regularly with traders or other stakeholders on regulations that affect movement, release and clearance of goods

5. Cooperate and coordinate customs and SPS border authorities’ activities

6. Cooperate with neighbour country’s customs and SPS border authorities to extent possible, if shared border
Publish description of procedures & info on fees and frequency etc

7. Publish on the internet a description of procedures at the border, forms and contact info for Enquiry Point

8. Publish info on existing or changed fees, give time between publishing and coming into force

9. To extent practicable, upon written request, give explanation if inspection of perishable goods is delayed

10. Publish info on increased inspection frequency or its suspension - and inform importer / authorities in exporting country on detention of goods
Modernization and flexibility – i.e. perishable goods

11. Allow submission of (e-)SPS documents prior to arrival of goods, and – to extent possible – e-payment of fees.

12. Establish procedure to apply for expedite release – air cargo

13. Prioritize perishable goods when inspections are scheduled

14. Arrange – or allow importer to arrange – proper storage facilities for perishable goods at border
More flexibility

15. Pre-shipment inspections for SPS purposes should be allowed

16. Allow importer to return rejected consignments, or send them to other destination, within reasonable period of time
TFA complements the SPS Agreement

Raise awareness on new tasks in SPS authorities!

Formalize cooperation, consultation and coordination!

Remember business perspective when producing information!

Thank you!