



Introduction to World Trade Organization

Risk Analysis Training



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Purpose/Focus

- Introduce WTO
 - History and Mandate
 - Sanitary and Phytosanitary Agreement
 - Role of Risk Analysis
 - Standard Setting Bodies
- Technical Barriers to Trade Agreement
- Settling Trade Disputes
- Areas of Controversy related to Food Safety



What is the WTO?

- The World Trade Organization is an international organization with 160 member countries established in 1995, located in Geneva Switzerland.
- Functions:
 - Administering WTO trade agreements
 - Forum for trade negotiations
 - Handling trade disputes
 - Monitoring national trade policies
 - Cooperation with other international organizations

Source: www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm



What is the WTO Agreement?

- The legal ground-rules for international commerce. Essentially, these rules are contracts, guaranteeing member countries important trade rights. They also bind governments to keep their trade policies within agreed limits.

Source: http://www.wto.org/english/thewto_e/whatis_e/tif_e/understanding_e.pdf



Agreements related to Safety and Quality of Food

- The 13 WTO Agreements are binding to all members of WTO
- The agreements governing regulation of safety and quality of food in international trade are:
 - Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)
 - Agreement on Technical Barriers to Trade (TBT)
- Both try to identify how to meet the need to apply standards and at the same time avoid protectionism in disguise
 - Important as trade barriers come down



WTO Agreement

- SPS = “Sanitary and Phytosanitary” or animal health, plant health and food safety
 - Members can implement food safety measures resulting from science-based risk assessments. These measures must not discriminate between foreign and domestic products posing the same risks.
- TBT = “Technical Barriers to Trade” – broader than SPS, includes all products.
 - Key element of TBT for CFSAN is that it covers food product **labeling**.





The SPS Agreement

- Recognises the rights of own countries to establish appropriate measures to protect:
 - Human life and health
 - Animal life and health
 - Plant life and health

On the condition that SPS Measures are:

- Non-discriminatory and not unnecessarily trade restrictive (between countries where identical or similar conditions prevail)
- Based on sound science and internationally-agreed risk analysis procedures



- The SPS Agreement has a two-fold objective. It aims to both:
 - Recognize the sovereign right of Members to provide the level of health protection they deem appropriate; and
 - Ensure that SPS measures do not represent unnecessary, arbitrary, scientifically unjustifiable, or disguised restrictions on international trade.

Source: http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c1s1p1_e.htm



What is an SPS Measure?

- According to Annex A of the SPS Agreement, an SPS measure is:
- to **protect animal or plant life or health** from risks arising from the entry, establishment or spread of **pests, diseases, disease-carrying organisms or disease-causing organisms**;
- to protect human or animal life or health from risks arising from **additives, contaminants, toxins or disease-causing organisms in foods**, beverages or feedstuffs;
- to protect human life or health from risks arising from **diseases carried by animals, plants or products thereof**, or from the entry, establishment or spread of pests; or
- to prevent or limit other damage within the territory of the Member from the entry, establishment or **spread of pests**.

Source: Annex A, and http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c1s3p1_e.htm



Example of an SPS measure?

- SPS measures can take many forms. Examples of SPS measures include the following:
 - requiring animals and animal products to come from disease-free areas;
 - inspection of products for microbiological contaminants;
 - mandating a specific fumigation treatment for products; and
 - setting maximum allowable levels of pesticide residues in food.



The SPS Agreement

Emphasises the following:

- Harmonisation
- Science base
- Least trade restrictiveness
- Recognition of equivalence
- Transparency

Specifically recognises:

- Codex Alimentarius - Food safety
- OIE - Animal health
- IPPC - Plant health

Stricter measures are allowed if justified by a risk assessment



What is a “Risk Assessment?”

(Obligation in Art. 5, Definition in Annex A.4)

- Article 5.1 requires that SPS measures be based on an assessment of the risks to human, animal or plant life or health.
- The importing country can rely on assessments made by another country if it is an “appropriate” risk assessment.
- Members are to take into account the risk assessment techniques developed by the three sister organizations.



Risk Assessment (continued)

- Article 5.2 explains what kinds of information shall be taken into account when undertaking a risk assessment:
 - available scientific evidence;
 - relevant processes and production methods;
 - relevant inspection, sampling and testing protocols;
 - prevalence of specific diseases or pests;
 - existence of pest- or disease-free areas;
 - relevant ecological and environmental conditions; and
 - quarantine or other treatment.

Source: http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c2s4p1_e.htm



Article 5.7 of the SPS Agreement allows temporary “precautionary” measures

Countries can to some extent apply the “precautionary principle”, a kind of “safety first” approach to deal with scientific uncertainty.

Common elements of the precautionary principle

- Plausible threats of harm
- Lack of scientific certainty
- Precautionary action to prevent harm



Harm

- To whom or what?
 - Environment
 - Public Health
 - Cultural, Social
- Magnitude and kind
 - Serious
 - Cumulative
 - Irreversible
 - easily avoidable?



Scientific uncertainty

- Uncertainty about cause or magnitude
- Uncertainty, indeterminacy, ignorance
 - Value of more data
 - Unpredictability of complex systems
 - Asking the right questions



Precautionary Action

- Anticipatory and preventive
- Increases rather than decreases options
- Can be monitored and reversed
- Increases resilience, health, integrity of whole system
- Enhances diversity (one size does not fit all)



What are the SPS 'tools'?

- SPS contains transparency provisions
 - Notification authorities
 - Enquiry points
- SPS committee meets twice yearly
 - International forum for discussion
- An effective **dispute settlement mechanism** exists within WTO
- The agreement complements that on technical barriers to trade



SPS Agreement Requires Transparency

- “Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a SPS regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.”



SPS Agreement Requires Transparency

- Annex B of the SPS Agreement establishes detailed Notification Procedures:
- “If the proposed measure is not based upon an international standard, Members shall:
- (a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;”



SPS Annex B Transparency Procedures (continued)

- “(b) notify WTO Members ... with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;
- allow reasonable time for other Members to make comments in writing...and take the comments and the results of the discussions into account.”



WTO Publishes SPS Measures as Notified, Concerned WTO Members Discuss with Governments in Capitol and in Geneva

WORLD TRADE ORGANIZATION

SPS information management system

SPS Gateway | Help | Contact Us | Sign up | Search | Special | Privacy

All notifications search results

Search criteria Results

Number of documents: 71 Current page on total: 1/2

Document Symbol	Links	Notification Type	Date of distribution	Members	Products	Notification keywords	Regions or countries likely to be affected
G/SPS/N/USA/1	PDF HTML XML	Regular notification	14/01/2008	United States	List of regulated articles subject to Pest Risk Analysis	Fruits Plant health Territory protection	All countries
G/SPS/N/USA/2	PDF HTML XML	Regular notification	07/10/2004	United States	Chicken feed	Affairing Animal feed Animal health Bacteria Escherichia coli Food safety Heavy metal Human health Hygiene Lemonade Tea Veterinary drug	All trading partners
G/SPS/N/USA/11	PDF HTML XML	Regular notification	07/10/2004	United States	Duck feed	Affairing Animal feed Animal health Bacteria Escherichia coli Food safety Heavy metal Human health	All trading partners



Trade Dispute Settlement

- Central pillar of the multilateral trading system
- Without a means of settling disputes, the rules-based system would be less effective because the rules could not be enforced
- The system is based on clearly-defined rules, with timetables for completing a case.
 - First rulings are made by a panel and endorsed (or rejected) by the WTO's full membership.
 - Appeals based on points of law are possible
- The priority is to settle disputes, through consultations if possible
 - As of April 2002, over 250 disputes had formally been raised under the WTO's dispute settlement system



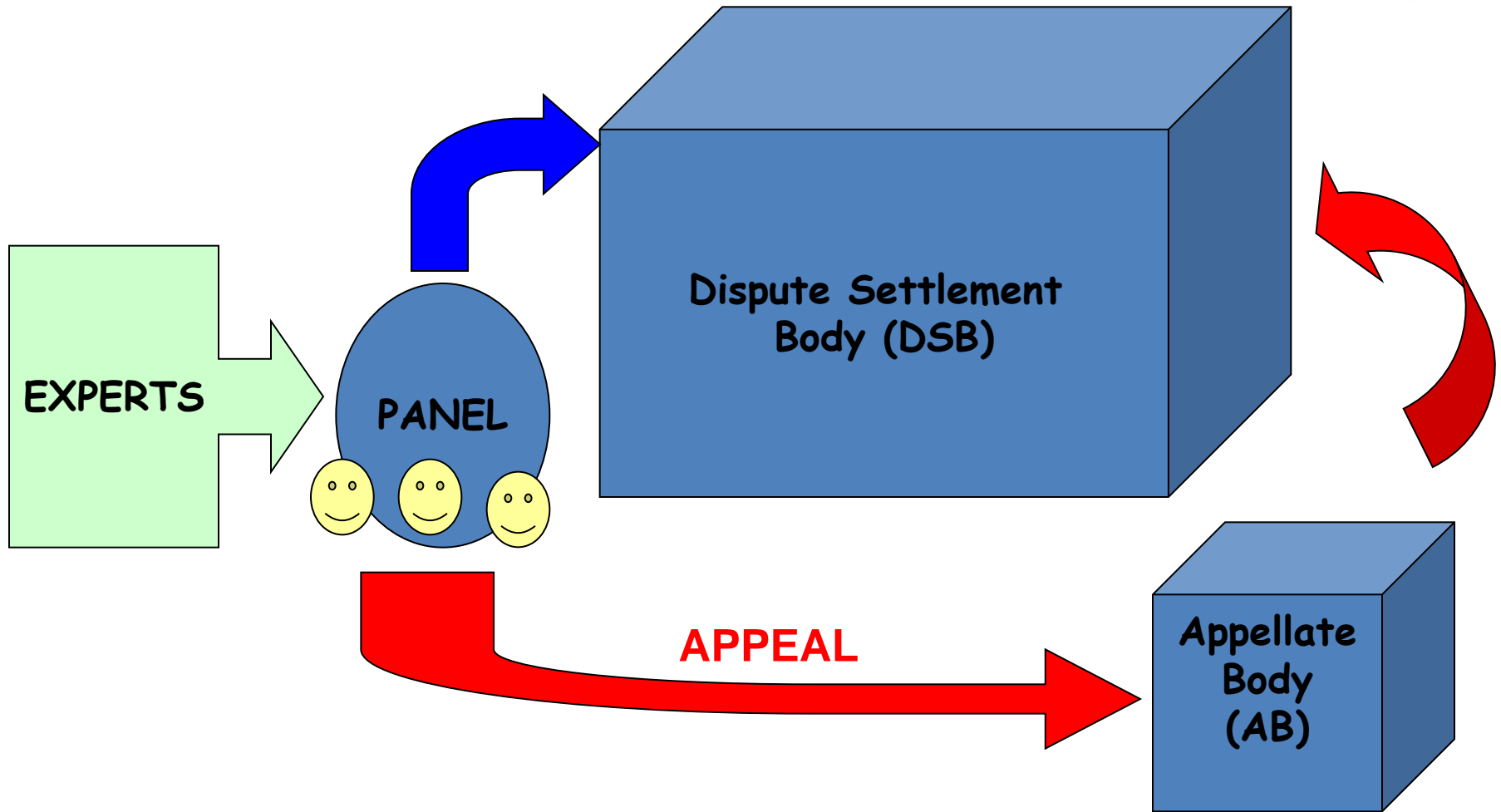
WTO Dispute Settlement System - Main Stages

- I. Consultation phase
- II. Panel review
- III. Appellate Body review
- IV. Adoption of report
- V. Implementation

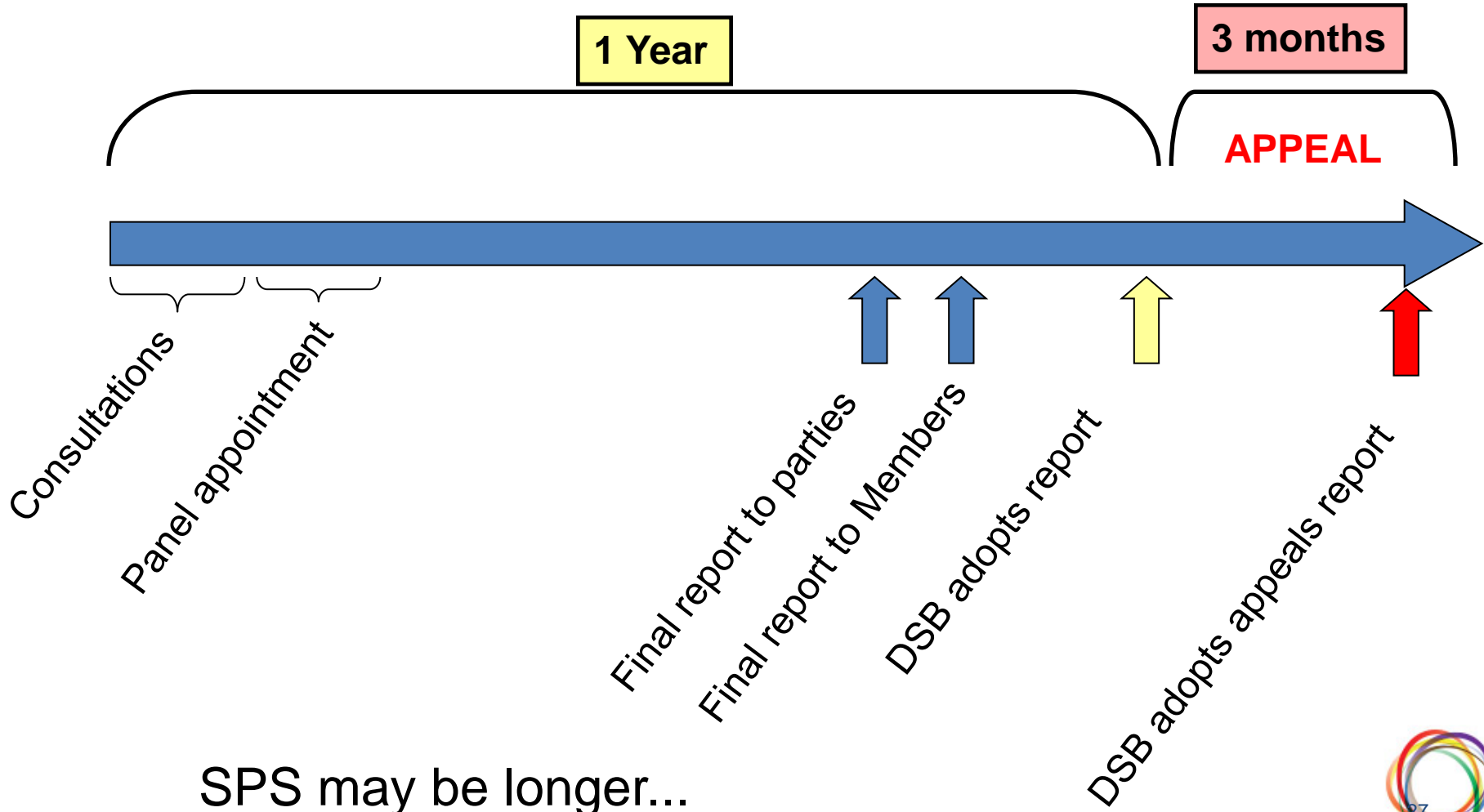
Good offices,
conciliation and
mediation
possible at any
moment



The Panel Process



Dispute timetable



SPS may be longer...



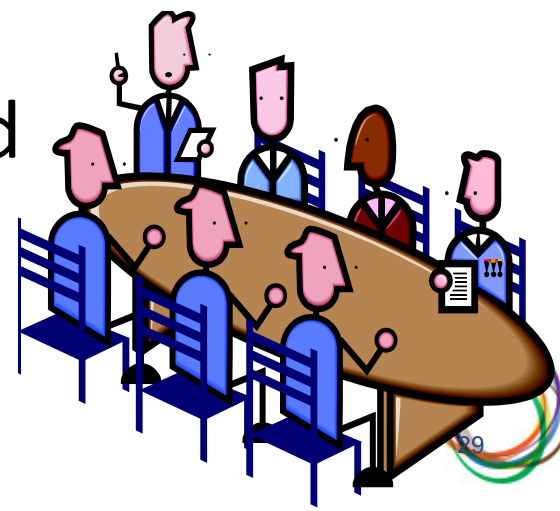
Panels

- Composition: 3 unbiased individuals
- Procedures:
 - Detailed working procedures
 - Consultation of scientific/ technical experts
- Report
 - Review facts and provide legal analysis
 - Conclusion regarding consistency of measure



Appellate Body

- Standing body of 7
- 3 hear any appeal
- Reviews issues of law and legal interpretations by Panel
- Upholds, modifies or reverses Panel findings
- AB decision cannot be appealed



Dispute Settlement Body (DSB)

- Establishes panels
- Adopts Panel /Appellate Body reports
- Determines “reasonable period of time”
- Reviews implementation
- Authorizes “retaliation” or “compensation”

Following some SPS examples



Parties and nature of complaint	Comments
<p>Indonesia — Measures Concerning the Importation of Bovine Meat (Complainant by <u>Brazil</u>)</p>	<p>Consultations requested: 4 April 2016 Current status: In consultations</p>
<p>Korea, Republic of — Import Bans, and Testing and Certification Requirements for Radionuclides (Complainant by <u>Japan</u>)</p>	<p>Consultations requested: 21 May 2015 Current status: Panel composed</p>
<p>Indonesia — Measures Concerning the Importation of Chicken Meat and Chicken Products (Complainant by <u>Brazil</u>)</p>	<p>Consultations requested: 16 October 2014 Current status: Panel composed</p>
<p>Russian Federation — Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union (Complainant by <u>European Union</u>)</p>	<p>Consultations requested: 8 April 2014 Current status: Panel report under appeal</p>
<p>United States — Measures Affecting the Importation of Fresh Lemons (Complainant by Argentina)</p>	<p>Consultations requested: 3 September 2012 Current status: In consultations</p>
<p>United States — Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (Complainant by Argentina)</p>	<p>Consultations requested: 30 August 2012 Current status: Report(s) adopted, with recommendation to bring measure(s) into conformity</p>