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## **Transparency of Complex Regulation: How Should WTO Trade Policy Reviews Deal with Sanitary and Phytosanitary Policies?**

**Protectionism flourishes in the shadow and withers in the sunlight. That is the idea behind the WTO's Trade Policy Review Mechanism (TPRM) that regularly assesses all measures by which members facilitate or inhibit trade. The more the general public knows about the economy-wide costs of protectionism, the less influential are special interest groups that are threatened by international competition. But trade policy reviews (TPRs) fail to cope with complex regulations whose official purpose is to promote non-trade objectives while nevertheless impeding trade flows. Taking sanitary and phytosanitary (SPS) measures that protect human, animal, and plant health as example, Valentin Zahrnt develops proposals on how the WTO can monitor and analyze such policies more effectively.**

The hazards to be controlled by SPS measures are numerous: parasites, bacteria, viruses, prions, heavy metals, and residues from pesticides and veterinary drugs, to mention just a few. SPS measures are therefore justified in principle. But the way they are implemented may harm the world trading system. SPS measures may unnecessarily impede trade. The costs of complying with SPS measures are especially burdensome for small-scale producers in developing countries. Sometimes exporters even face outright trade bans motivated by SPS objectives. Moreover, SPS measures repeatedly provoke high-profile trade conflicts that sour trade relations. The cases brought by the United States against the European Union over import restrictions on hormone-treated beef and genetically modified plants triggered strong reactions on both sides of the Atlantic. A similar case, filed by the Bush administration just before leaving office, targets the EU ban on poultry carcasses that have been decontaminated with chlorine. Disputes like these are likely to emerge more often in the future as countries frequently impose SPS measures with little concern for their trade effects.

Tensions between health and trade objectives, argues Valentin Zahrnt, should not engender confrontational politics: one ambition should not be bluntly pursued at the cost of the other. Instead, SPS measures should be designed to be as trade-friendly as possible without impinging on their health objectives. An adequate balance should be found when trade-offs are unavoidable. Health is one of the most valuable goods to society, but marginal health benefits must not lead to excessive economic costs. This balancing act is routinely undertaken within countries. Similarly, countries should care about the economic costs of their SPS measures abroad.

The World Trade Organisation regularly reviews the trade policy of its members. Such reviews could help to defuse SPS-related trade barriers and conflicts by explaining *how* countries arrive at *what* policies. How transparent and independent are countries' risk assessments of health hazards? Which provisions have countries taken to account for trade effects when selecting SPS measures? Do countries give foreign interests adequate possibility to voice their concerns over proposed SPS regulation? By addressing the procedural approaches countries could learn about how they fare in international comparison and which best practices of SPS policy-making can be identified worldwide. Transparency also allows domestic and international stakeholders to exercise pressure on governments to improve unnecessarily trade-restrictive SPS measures and to reform policy-

making processes. Countries with deliberately opaque procedures would be shamed. The result will be SPS policies that are more effective in attaining health *and* trade objectives.

However, this will require more than the few superficial and uncritical pages that TPRs currently devote to SPS regulation. The detailed analysis necessary to give a meaningful picture of a country's SPS regulation and policy-making processes warrants publication in a separate, issue-specific TPR. Such a move could serve as a model for establishing further issue-specific reviews that address technical barriers to trade, trade in services, and other complex regulatory challenges.

Such a reform could be started soon. It does not have to wait for the end of the Doha Round. Members have already agreed to let the WTO publish topical reviews of countries trade policies. A new mechanism to monitor Regional Trade Agreements has been set up. More recently, the WTO is monitoring what trade measures governments have undertaken amidst the economic crisis. This is useful but insufficient to reign in creeping protectionism – let alone to prepare the ground for additional liberalization. Therefore, the G20 should give the political impetus to move towards a more thorough evaluation of members' trade policies and decision-making procedures.

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