

Balancing trade and health in the SPS Agreement: the development dimension

Citation for published version (APA):

Prevost, D. (2009). *Balancing trade and health in the SPS Agreement: the development dimension*. Wolf Legal Publishers. <https://doi.org/10.26481/dis.20090507dp>

Document status and date:

Published: 01/01/2009

DOI:

[10.26481/dis.20090507dp](https://doi.org/10.26481/dis.20090507dp)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

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Propositions relating to the dissertation

Balancing Trade and Health in the SPS Agreement: The Development Dimension

Marie Denise Prévost

1. While the regulatory model reflected in the *SPS Agreement* seems to embody an 'appropriate' trade/health balance, even for less-developed WTO Members, it is unworkable for many of these Members if it does not go hand-in-hand with effective SPS capacity building.
2. Often underestimated, the institutional and procedural arrangements in the *SPS Agreement*, and those developed by the SPS Committee to operationalise some of its provisions, hold great potential for market access gains without threatening SPS protection in importing Members.
3. The fruitful work of the SPS Committee exemplifies the progress that can be made when discussions at the WTO move from the political/diplomatic level to the level of technical discussions among experienced technocrats.
4. There is an urgent need for WTO panels to recognise the normative framework for the interpretation of the *SPS Agreement* provided by international human rights law, as an alternative to their current unrealistic reliance on science to distinguish SPS protection from agricultural protectionism.
5. It is cause for concern that the new disciplines on behind-the-border areas of regulatory policy negotiated in the Uruguay Round result in significantly higher implementation costs the less developed a WTO Member is, yet these disciplines are coupled with only weak and undifferentiated provisions on technical assistance for developing country Members.
6. The 'one-size-fits-all' approach inherent in the push towards regulatory harmonisation disregards the fact that there are good reasons for divergent regulatory institutions and policies, which reflect varying circumstances, priorities and economic resources.
7. In the context of efforts to address climate change, measures taken by WTO Members to prevent carbon leakage would most likely fall foul of the national treatment obligation of the GATT 1994.
8. The current financial crisis illustrates the dangers of economic globalisation in the absence of effective international rules to manage such globalisation