

The Strange Marriage of the SPS Agreement and the IPPC

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The **SPS** is a trade agreement that makes provision for protection.

The **IPPC** is a protection agreement that makes provision for trade.

Commonalities

- Equivalent legal status as international treaties
- Shared membership (WTO=164; IPPC=183)
- Almost the same principles
- Shared harmonization objectives
- Shared transparency objectives
- Complementary dispute resolution processes
- Provisions for Technical Assistance

Key legal differences

- “*Shall*” obligations in the SPS
- SPS links to other agreements:
 - Inside the WTO (e.g., GATT, TFA)
 - Outside the WTO (e.g., IPPC, OIE, Codex)
- WTO binding dispute settlement mechanism
- IPPC responsibilities of NPPOs (Art IV)
- IPPC definitions, definitions, definitions

Are standards obligations?

- SPS Art 3.1: Members *shall* base their phytosanitary measures on international standards
- SPS Art 5.1: Members *shall* ensure that their phytosanitary measures are based on risk assessment

Big concepts

- **SPS:**
 - Phytosanitary measures (SPS)
 - Appropriate level of protection (SPS)
- **IPPC:**
 - Strength of measures (IPPC)
 - Least restrictive measures (IPPC)

Small details

- Urgent versus emergency measures
- Non-discrimination versus National treatment
- Economic consequences
- Scientific versus technical justification
- Regionalization versus free areas
- Risk assessment versus Pest Risk Analysis
- Pests and diseases versus only pests
- Enquiry point versus contact point

Happily ever-after

- Creation of PRA standards
- ISPM 15 response
- Provision of experts for disputes
- Dispute resolution
- Support for technical assistance/training
- Relationship-building with the Convention on Biological Diversity

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(Thank you)



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