

# TRANS-PACIFIC PARTNERSHIP AGREEMENT

## CHAPTER SUMMARY: SANITARY AND PHYTOSANITARY MEASURES

The Sanitary and Phytosanitary Measures Chapter (SPS Chapter) sets out the basic rights and obligations of TPP Parties when implementing quarantine measures. In Australia, these measures are the responsibility of Biosecurity Australia (part of the Department of Agriculture) and the Australian Quarantine and Inspection Service. Pre-border measures include risk analyses for proposed imports, and offshore quarantine arrangements. Border measures include the screening of vessels (including aircraft), people and goods to detect potential threats, and the implementation of internal protocols to manage an outbreak of disease, should this occur.

Australia, like all TPP Parties, is a party to the World Trade Organization (WTO) Sanitary and Phytosanitary Agreement (SPS Agreement). The TPP SPS Chapter reaffirms existing rights and obligations under that WTO agreement. It also provides further detail on cooperation, consultation, and transparency.

### MORE INFORMATION ON THE CHAPTER

Australia is one of the world's leading agricultural commodity exporting nations. Agricultural production was worth approximately \$57.8 billion to the Australian economy in 2015-16, with around two-thirds exported on average each year.

Australia's robust science-based biosecurity regime protects Australia's unique and fragile environment. Our quarantine measures play a critical role in protecting Australia from the introduction of plant and animal diseases and preserves Australia's 'green' reputation as a reliable supporter of high quality agricultural produce.

The provisions of the SPS chapter in the TPP do not alter Australia's right to continue to implement a robust, science-based biosecurity regime. Australia's current biosecurity framework and practices will not change and Australia will maintain its WTO rights.

Specific biosecurity measures maintained by TPP Parties are included in the TPP.

Australian producers will benefit from SPS Chapter commitments that seek to facilitate trade by improving cooperation, consultation and transparency on TPP Parties' biosecurity measures. A TPP Committee on Sanitary and Phytosanitary Measures is established and will resolve issues so that biosecurity measures do not become an unnecessary obstacle to trade.

Improving information flows across the region, including in the event of outbreaks of disease, will help keep out pests and diseases which will benefit consumers and producers alike.



## Cooperation, Consultation and Transparency

The SPS Chapter establishes a range of mechanisms for greater cooperation and consultation between TPP Parties including:

- Establishing the Committee.
- Identifying primary contact points in each party's regulatory body.
- Allowing TPP Parties to request information on any issue arising out of the SPS Chapter with the recipient required to respond in a timely manner.

Provisions on transparency build on existing practice under the WTO requiring information sharing and cooperation. Ensuring these practices are uniform across the TPP region will mean easier access to markets for our exporters and greater confidence in other TPP Parties' biosecurity measures. Improved flows of information between TPP Parties' agencies responsible for biosecurity will also lead to greater policy and regulatory coherence, faster resolution of problems when they arise, and improved responses to outbreaks of disease.

## Science and Risk Analysis

Under the WTO SPS Agreement, biosecurity measures must be based on scientific principles. The SPS Chapter reaffirms this while reiterating each TPP Party's right to determine its appropriate level of protection, to conduct risk analyses before allowing products entry, and to maintain provisional SPS measures.

The TPP sets out the expectations for clear communication between the parties when performing a risk assessment on an exporter's product, including the opportunity for other TPP Parties to comment. It also reinforces the WTO obligation to ensure SPS measures do not arbitrarily discriminate between TPP Parties and to consider risk management options that are not more trade restrictive than required.

## Adaptation to Regional Conditions and Equivalence

The WTO SPS Agreement requires WTO Members to take regional conditions into account when imposing biosecurity measures. This recognition can include pest or disease-free geographic areas. It encourages parties to facilitate trade by considering whether to allow a particular import based on recognition of certain regional conditions. The SPS Agreement also recognises that there may be a number of SPS measures that can provide equivalent levels of protection, and that recognition of such equivalence, once proven by an exporting party, can also promote trade. The TPP SPS Chapter seeks to encourage greater use of these mechanisms. The SPS Chapter does not create automatic recognition of regional conditions or equivalence.

## Audits

It is common practice for countries to undertake audits of trading partners' production systems to ensure that requirements to meet an importing party's biosecurity measures are maintained. The SPS chapter confirms the right of parties to undertake audits, while ensuring audits are carried out in a transparent manner to avoid unnecessary disruption or becoming a resource burden for the country being audited. The SPS Chapter commits the TPP Parties involved in an audit to discuss its scope and findings. Any actions taken as a result of the audit are to be based on verifiable and objective evidence.

## Import checks

Import checks are a key component of a biosecurity system. TPP Parties agree to carry out import checks based on risk and without undue delay to ensure exporters are not disadvantaged. Should a party restrict an import on the basis of an adverse border inspection, TPP Parties commit to prompt, clear communication, including providing the exporter with necessary information on testing procedures to allow resolution of the issue as soon as possible. These processes should be consistent with recognised international standards. This reflects Australia's existing approach.

## Certification

Parties have agreed to limit certification requirements to information essential for the protection of biosecurity. The SPS Chapter also encourages TPP Parties to work together to develop model certificates to accompany specific commodities and to promote electronic certification.

## Emergency measures

It is sometimes necessary to quickly implement emergency measures to protect biosecurity without having the time to undertake the normal process of risk assessment and notification. The SPS chapter reflects this. The SPS Chapter provides a timeframe for a review of any emergency measures to ensure it does not become an arbitrary barrier to trade. There is also a duty to notify trade partners as soon as the measures are put in place.

## Cooperative technical consultations and dispute settlement

The SPS chapter introduces a cooperative consultation process aimed at resolving technical concerns between TPP Parties, should they arise. Specific time frames are stipulated for consultation, which is aimed at resolving issues without the need for formal dispute settlement.

TPP dispute settlement applies to most of the obligations in the SPS Chapter. There are phase-in periods for dispute settlement for some provisions concerning science and risk analysis and recognition of equivalence of SPS measures, as well as some limited carve outs.