

2000-11

WTO

2000. 12

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(가
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가

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O-157 ,

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WTO

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WTO

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가

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, SPS

가

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SPS

WTO

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SPS

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가

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가

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가

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WTO

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가
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2000 12

韓國海洋水產開發院
院 長 李 廷 旭

< >	1
1	9
1.	9
2.	12
2 WTO	14
1. SPS	19
2. TBT	21
3.	23
3 WTO/ SPS	25
1. WTO/SPS	26
2. WTO/SPS	28
1)	/ 28
2)	/ 29
3)	/ 31
4) 가	/ 31
5)	/ 37
6)	/ 38
7)	/ 39
8)	/ 39
4	42
1.	43

1)	/ 43	
2)		/ 44
3)	/ 46	
4)	/ 50	
2.	.....	54
1)	/ 54	
2)	/ 63	
3.	.....	73
1)	/ 75	
2)	/ 79	
3)	/ 82	
4)	/ 85	
5	.....	92
1.	.....	92
1) SPS	/ 92	
2)	/ 93	
3)		/ 94
4)	/ 95	
5)	/ 97	
6)	/ 98	
2.	.....	100
1)	/ 100	
2) SPS		/ 101
3)	/ 101	
4)	/ 102	
5)	/ 103	

- 6) / 104
- 7) / 105
- 8) / 105
- 9) / 106

6 107

..... 111

..... 115

< 2-1> UR	.....	20
< 3-1> SPS	.....	27
< 4-1>	.....	45
< 4-2>	.....	51
< 4-3>	.....	54
< 4-4>	.....	56
< 4-5> .	.....	57
< 4-6>	.....	58
< 4-7>	.....	59
< 4-8> .	.....	60
< 4-9>	.....	61
< 4-10>	.....	62
< 4-11> 5	.....	64
< 4-12>	.....	65
< 4-13> 가	.....	66
< 4-14>	.....	68
< 4-15> 가	.....	69
< 4-16>	.....	70
< 4-17>	.....	71
< 4-18> 가 (1999 )	.....	72
< 4-19> 1999	.....	86
< 4-20> (462 )	.....	89
< 5-1> .	.....	96

< 3-1> SPS	.....	41
< 4-1>	.....	44
< 4-2>	()	55
< 4-3>	.....	74
< 4-4>	.....	77
< 4-5>	.....	82
< 4-6>	.....	83
< 4-7>	.....	84

< >

APEC(Asia-Pacific Economic Cooperation) :

- APEC 1960 PBEC(), 1980 PECC() , '70 '80 .

, '89 11 1 APEC ()

BOP Article(Balance of Payment Article :)

- GATT 12 , 18 B . 1989 10 18 B

Codex Alimentarius Commission()

- (Joint FAO/WHO Codex Alimentarius Commission) 1962 , FAO .

FAO(Food and Agriculture Organization of the United Nations :)

- 1943 7 UN ' , FAO 1945 10 1 UN . FAO

, 가

GATT 47(General Agreement on Tariffs and Trade :)

- GATT 47 1947

10 , GATT
“WTO”

가 GATT 94 ,

“GATT 47

GMP(Good Manufacturing Practice,)

- , 가 ,
EU

HACCP(Hazard Analysis & Critical Control Point :)

- , 가
가

가 , ,
1998 HACCP

ISO(International Standards Organization :)

- ,
SIO 가 130

Maximun Residue Limits(MRL :)

- ,
WTO/SPS() MRL

MRA(Mutual Recognition Arrangement :)

- APEC

가

Negative System

- , 가

. Positive System 가

가

가

NSSP(National Shellfish Sanitation Program :)

- , 가 ,

가

,

가

NTB(Non-Tariff Barriers :)

- ,
(, 가 ,

),

()

Rules of Origin()

- , ,

SPS(Sanitary and Phytosanitary Regulations :)

- GATT 20 (B) . GATT

.

가 , WTO SPS , .
 가 , ()
 TBT(Agreement on Technical Barriers to Trade :)
 - TBT , , 가 가
 가
 - (standardization) (standards :),
 (Technical regulation :) 2가 (1)
 - (Conformity assessment procedures) EJ
 “ ” “ ”
 , (Certification) . (Testing & inspection) 2가 가
 - , TBT .
 가 ()
 Uruguay Round(UR,)
 - . GATT
 8 . GATT
 , ,
 ‘86 9 116

WTO(World Trade Organization :)
 - GATT가 “ ”
 WTO , ,
 1995 1 1
 UN . GATT가

x

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GATT

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WTO

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○

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가

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WTO

가

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가

○

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SPS

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2 WTO

○ UR

가
가 SPS

○ APEC

- 1996 , 1997
- 2000 ,
- MRA ,
- , 2010 , 2020

○ FAO

- WTO UR FAO
- SPS TBT WTO 가
- FAO
- 2000 3 FAO 「
- 」
- SPS 가 , SPS ,
- HACCP FAO , 가
- 가 , 가 가

○

- EU
- 1994 HACCP

- 2000 EU 「 」

-

- 1994 가

- 1998 HACCP . 3

-

- . 가 EU,

GMP

-

, ,

- 1995 HACCP

○ WTO

○ 2000 7 15 WTO SPS

(5.5)

가

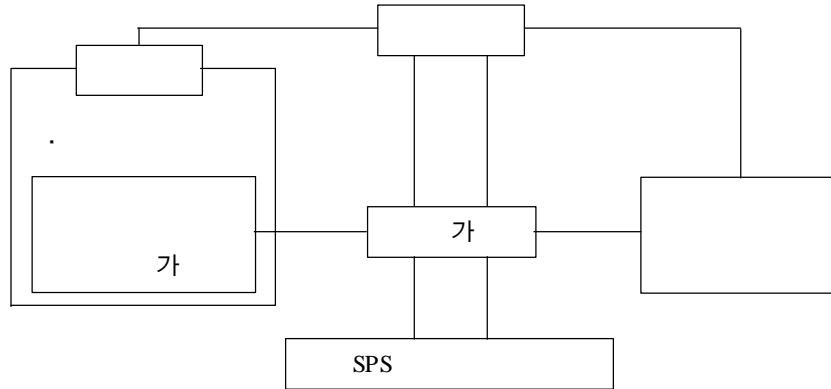
3 WTO/SPS

○ SPS

- WTO GATT 가

- SPS

- SPS



○ SPS

4

○ - 1999 620 175%
가 , 45,723 182% 가

6

- :
-

5

○

- SPS
-
-
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- . 가
- 가 .
- (Negative System)
- 가 가
-

○

-
- SPS
- . (Positive System)
-
-
-
-
- , ,
- Data Base
- SPS

- 가
EU .

-

6

○ WTO

, 가
- SPS
- . 가 가
- 가 가
- 가
- 가
- 가
- 가 가
- 가 가

○ WTO

WTO/SPS

○

- ,
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-
- 가
- , , Data Base
- 가

EU .

-

○

- - - , - - -

- 가 WTO
가 . ,

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○

가 , , (, ,
, ,), , (, ,
) 가

1

1.

가

WTO

가

.¹⁾

GATT

WTO

가

가

() SPS (;
Sanitary and Phytosanitary Measures)

가

,

가

O-157

,

가

1) (WTO, OECD, FAO)

가

6 FAO 7 . 2000 3
(2000. 3. 22 3. 25)
3 가

가

()

()

, 가 가 9

.2)

가

SPS

, 가

,

가

.3)

2)

가 ,

가

()가

, 가

3)

2000 9 5

1

. 1980 17kg

가

1997

44kg

2.6

가

가

EEZ

283

2000)

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, 1999

291

1

1995

335

IMF

(

33kg

1998

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가 . 가

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가 .4) 「

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.5)

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- 4) , “WTO 50 - SPS TBT ”,
(), 2000. 7. ; “, 「」
,” “UR/
95-16 (16) .
5)

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“ ”(, 2000)

()

“ ”(, CEO Focus 64 ,
2000)

“
“(, 1999)

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“WTO ”(
, 1995) , WTO

拙者 1997 “ HACCP HACCP ”(KMI)
HACCP , HACCP
“ , 1999
” (KMI)

, 2000 “

”(KMI)

()

,

.

WTO

WTO, OECD, FAO, APEC
SPS

가

2.

가

가

가

가

가

WTO

가

WTO/SPS

, WTO/SPS

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가 , , ,
가 .

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WTO 가

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2 WTO

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UN ,
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200 , WTO
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가 . 가
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가 .
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가
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가 .
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가
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가 ,
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가
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APEC()
가
(SCSC) . SCSC
1996 1997

, 1999 8 7 가 . 2000

MRA() ,

, 2010 2020

FAO()

WTO

. FAO가

(Codex

Alimentarius Commission : CAC)

(International Plant

Protection Convention : IPPC)

SPS

TBT

. FAO WTO UR

. , SPS TBT WTO

FAO

, 가

SPS TBT

, FAO

가, ,

. FAO

. SPS Codex

FAO

가

FAO 2000 3

FAO (

7) 「

」 ,

, O-157

가 .
가
가 . HACCP(Hazards Analysis
Critical Control Point) 가
, .
. .
. .
HACCP .
「WTO -SPS, TBT,
가 , SPS 가
, SPS ,
. HACCP
FAO , 가 ,
‘ , 가 가
. .
. .
, EU .
. (91/492/EEC) .
EU .
, 가 ,
(GMP:Good Manufacturing Practice) , 가
() , 가
. 3 (91/493/
EEC, 2) EU 3 “ .
” , 가 ,
, .

HACCP “ (91/493/EEC, 1991)” HACCP , 1994 (94/356/EEC) HACCP

.⁶⁾
2000 1 EU 「 」
가 가
EU

FDA 가
가
(1994 1 28).⁷⁾
50% 135

가

6) (95/453, 454/EC, 1995. 10)
, EU

. 1999 EU 가 6 97 (37, 60)
7) FDA “ 가 ”
HACCP
(1994. 1. 28. Federal Register (59CFR 4142).

HACCP
가
HACCP
HACCP

1995 12 18 HACCP , 2
1997 12 18 HACCP

1. SPS

1948
GATT()
가
1974 6 GATT
(Standard Code)
,
(1986-1994)
1986 UR
UR
(SPS Agreement)
(TBT Agreement) 1995 1 1
UR GATT 20
(b)
, GATT
GATT
UR

가 .

가 SPS

UR

< 2-1> .

< 2-1> UR

1986. 9	UR . 가
1988. 9	10
1989. 4	UR 가 (TNC) “ 가 GATT 20 (b) ”
1991.12	GATT Arthur Dunkel , “ ”
1993.12	UR “ ” UR
1995. 1	SPS

WTO SPS GATT 20 (b)

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가

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SPS

가 ,

가

SPS

WTO

,

MTN 1979 TBT Code가 . (i)
가 (114 GATT 38 가), (ii)
TBT 가 ,
(iii) TBT 가
, (iv) (Standards)⁹⁾ (Technical Regulations)¹⁰⁾
.
가 가 가 .
가 가
가 TBT WTO
. WTO TBT
,
,
(Process and Production Methods) . TBT
, UR TBT SPS
.
SPS
.
TBT SPS 가
. TBT 가
, SPS 가 가
가 .

(2 2),

9) , , (Processes and Production Methods) ,

10) 가 .
(Processes and Production Methods) , 가 .

가 ,
 , ,
 (2 2).
 TBT 가
 가 (42)
 가
 .

3. (Codex Alimentarius Commission : CAC)

Codex Codex Alimentarius Commission(CAC) 「
 」 Codex (code), Alimentarius
 (food) , Codex

(Recommendation)

1961 11 11 FAO 29 WHO

FAO/WHO (Codex) ,

1962 10 FAO/WHO

.¹¹⁾

Codex

, Codex

가

Codex가

Codex

, 8

, 14

, 5

(

8 ,

11)

가 .

165

(1997

) ,

1970

5 ,

1981 6

FAO 75%, WHO 25%

FAO 80%, WHO 20%

FAO

14 , 5) . 가
Codex 1992
가 1999 7 , 5
5 (CAC/GL 20- 1995),
, , 가
(CAC/GL 26-1997),
(CAC/GL 34-1999),
(CAC/GL 19-1995) 가
(CAC/GL 25-1997) .
Codex
Codex
가
Codex
Codex
(, Codex
(,),
() 가
Codex WTO TBT ,
SPS 가 . Codex UR
WTO , SPS
가 ,
(, , ,),
Codex ,

3 WTO/SPS

GATT

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(GATT 20 b).

WTO

GATT

가

WTO/SPS

SPS

(SPS

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WTO

(2).

가

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5).

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가 가

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5).

SPS

(Codex Alimentarius Com-

mission),

(Office International des Epizooties), FAO

(IPPC)

,

SPS

(

3).

1. WTO/ SPS

SPS (The WTO Agreement on the Application of Sanitary and Phytosanitary Measures)(SPS Agreement) 14 3

(< 3-1>).

(Article 1 : General Provisions),

(Article 2 : Basic Rights and Obligations), (Article 3 : Harmonization),

(Article 4 : Equivalence), 가

(Article 5 : Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection),

, (Article 6 : Adaptation to Regional Conditions, Including Pest — or Disease — Free Areas and Areas of Low Pest or Disease Prevalence), (Article 7 : Transparency), ,

(Article 8 : Control, Inspection and Approval Procedures), (Article 9 : Technical Assistance),

(Article 10 : Special and Differential Treatment),

(Article 11 : Consultations and Dispute Settlement), (Article 12 : Administration), (Article 13 : Implementation), (Article 14 :

Final Provisions) 14 46 .

3 (Definitions),

(Transparency Of Sanitary And Phytosanitary Regulations), ,

(Control, Inspection and Approval Procedures) .

< 3-1>

S P S

(1)	·
(2)	· 가 · ,
(3)	· : · : 가
(4)	· , ·
가 (5)	· 가 : 가 , 가 · , , · , , · : SPS ()
(6)	· · ()
(7)	·
, (8)	· 가 , , 가 / ,
(9)	·
(10)	· ()
(11)	· WTO
(12)	·
(13 , 14)	· ·
A	· 7 가
B	·
C	· ,

2. WTO/SPS

1)

SPS

(2 「 」).

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2 1).

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(2 2). , 5 7 ,12)

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13)

12) 5 7 , 가 ,

, 가

가

가

(SPS 5 가

(Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection, 7).

13) SPS A 1.

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, , , 가 , , , , ,

, , ,

가

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1994 GATT , 20 (b) ¹⁴⁾

SPS 2 , 가

가 ,

2)

SPS 3 (Harmonization)

. 3 1

가
가

, 3

5 1 8 ¹⁵⁾

14) GATT 20

가

(a)

(b)

15) SPS 5 가

($\frac{3}{3} \frac{3}{2}$).

,
, 1994 GATT
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3 4

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(scientific justification)

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(least

common demoninator)가

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가

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3)

SPS 4 (Equivalence)

가
가
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(4 1).

4 2).

4) 가

SPS 5 가

(Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection) .¹⁶⁾

16) SPS

4. 가 A -

가 , 가 , 가 , 가 .

5. - ,

: " 가 " .

가 , ,
 가 , ,
 , 가 ,
 가
 (5 1).
 가 , 가 ,
 , , ,
 (5 2).
 가
 가 ,
 가 ,
 가 ,
 가 .
 5 5 “ ,

12 1 , 2 3 17)

17) 12 ()

1.

가 .

2.

3.

가

.18)

(SPS 5 5)
() A(), B(
) SPS 5 5
가 .

.19)

.
가,
가,
가.
.
.
.

18) A, B , A , B

19) GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF ARTICLE 5.5(A. Application of the concept of the appropriate level of protection), WTO Committee on Sanitary and Phytosanitary Measures (G/SPS/15 18 July 2000) ().

가 , ‘ ,
가 가 (가
가)
5 . SPS 5
5 .
가
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가
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5 5
가 .
 , , .
가 .
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. SPS
 ,
 ()
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 .20)
 .
 .
 가
 . ,
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 가 ,
 가 가
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 , 가
 가 ,
 .

20) GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF
 ARTICLE 5.5(B. Practical implementation of the concept of an appropriate level
 of protection), WTO Committee on Sanitary and Phytosanitary Measures(G/SPS/15
 18 July 2000) .

가

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가

가

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가

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SPS

SPS

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가

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가

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5)

SPS

7

(Transparency)

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가 ,

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가

SPS

가

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SPS

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7)

SPS 10
(Treatment)

(Article 10 : Special and Differential

, ,
가 ,

(10 3).

(10 4).

8)

SPS

SPS

가

. WTO

WTO

가 .

SPS

,

1994 GATT 22 () 23 ()

1995 WTO가 1999 175
 16 SPS
 , SPS
 .²¹⁾

SPS 가 EC
 (가), ()
), ()
 WTO .

가 SPS .

가 가 가 가
 가 가 가
 가

SPS
 1999 7 6
 가 ,

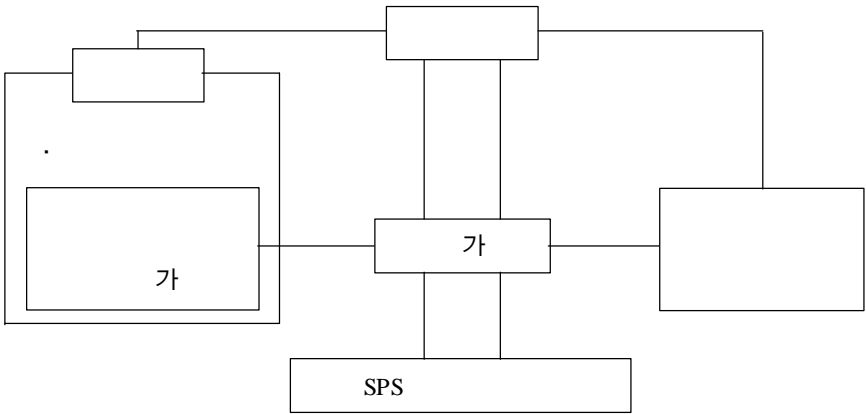
WTO , 1999 7 19
 가 SPS
 . 1999 6

, SPS 가 . SPS

21) , 「WTO」(, 1999) .

5
가 , .

< 3-1> SPS



SPS 가 가

SPS

SPS 가 가

< 3-1> .

4

1960
1970
1980
1990
가
1995 WTO
(, HACCP) 가
가 가
2 , 3
WTO/SPS
2 3

· , 가
· , , , , 가 .

< 4-1>

· 가

가

· , , ·

가가 , 가 , .

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· 가(),

· 가 , , , ,
· , , , HACCP, .

2)

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가 ,

(가 ,
 ,) 가
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 가 .

, 가(),
 가 , , , ,
 , , (HACCP), .

, , ,
 , , ,
 .

3)

가
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 .
 가
 .
 1962 1 20 1007 .
 「 , 」
 「 」
 3 5 .
 50 , 1991 12 14
 4432 13 80 . 2000 1 12 (
 6154) .

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 (, 54) (,
 59),
 「 」
 , 37 ,
 , , ,
 「 」
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 , , 「 ,
 , ,
 「 」
 , ,
 , , ,
 ,
 「 」(告示)
 , ,
 .
 .
 (7
), 가 (7), (10) 가
 7 , 9 , 10
 「 」
 , “

- ”, “ ”, ” (HACCP)", “ 가
 ”, “ ”
 「 」
 .
- ① :
 (1
). (, 가 ,
 , , . 9)
 (2).
- ③ : , 가 , , . (「
 」) (3).
- ④ : 가
 . . . 가 .
 . . . (4).
 (5 , 8).
- ⑤ :
 가 (6), 가 (7), 가
 (12).
- ⑥ :
 가 (7), . . (9) ,
 가 (12) .
 ,
 . . (7 , 9).
- ⑦ : ,
 가 , . . ,
 (10),
 (11).

- ⑧ 가 : , ,
(18)
(13).
(14),
가 , ,
(15). . 가
가 가 (19).
- ⑨ : , , , .
(4 , 5 , 6 , 8),
(16).
:
(20) , . .
(17).
(20 2).
:
(21) 가
(22 , 69),
가 (23).
가 가
(24 , 30). (25).
(26),
.
(27).
(31), . 가
(28).
가 . 가
(29),
(33). (31 2) (32 2)

, (32).

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가 . (55),

(56), (56 2), (57

), 가 (58), (59), 가

(60), (62), (

63)가 , (61) .

(65)

가

(64).

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(74 77).

(78 , 80) (79) .

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(36 41), (

42 , 43), (44 54),

(54 2, 54 3), (66),

(67 , 68), (71),

(72 73)가 .

4)

1908

.

가 , 1933 4

가 가 .

1949 6

, 1961 10

. 1966 3

, 1981 11

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1996 8

가

3 11

< 4-2>

1908	()
1933	
1949	
1950	
1953	
1955	()
1961	()
1966	()
1975	
1977	
1981	()
1991	()
1992	
1994	
1996	()

: 水友會, 「現代韓國水產史」(1987), pp.649-663; , 水産廳 30年史(1996), pp.646-661; <http://www.nfpis.go.kr/nfpis/intro/frame01.htm>

, 1950 116 1952 5

10

3 2 . 1999 2 5

5806

27

(16392 , 8)

(, 28)

1 「

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2 (, , .
 , .가) . 2 1 「
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① : . . .
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 가
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.가
 (4).
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 .가
 (6).

③ , :
 (8),
 (9).

④ :
 가

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 (11).
 (12),
 7 2 · 가
 41 1 2
 49 가 가
 가 가

(13).

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(14).

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가

14

(16).

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(17), ·

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(18).

, · 가 가 ·

18

(19).

: (20), (21), (22), (23), (24 27) .

2.

1)

1999 456
1980 1.6 , 1990 1.2 가
가 1999 1980 1.6 가
1980 69 1999 123
1.8 가 .

< 4-3>

(: M/T, %)

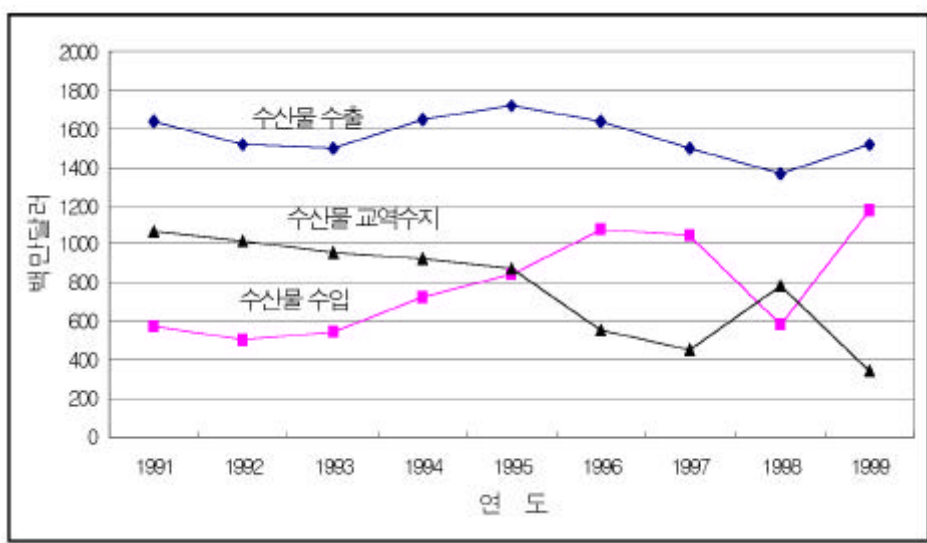
		1980	1990	1995	1996	1997	1998	1999
		1,746	2,583	3,215	3,202	3,187	2,394	2,746
	(A)	696	1,058	1,170	1,191	1,193	1,354	1,232
		77	290	371	427	480	319	582
	A/C(%)	27.6	26.9	24.6	24.7	24.5	33.3	27.0
(C)		2,519	3,931	4,756	4,820	4,860	4,067	4,560
		2,410	3,275	3,348	3,244	3,244	2,834	2,909
	(B)	41	380	948	1,205	1,189	753	1,332
		68	276	460	371	427	480	319
	B/C(%)	1.6	9.7	19.9	25.0	24.5	18.5	29.2

: , 「 2000」, 2000.
:

1980 1.6% 1995
 19.9%, 1996 25.0% 가 . 1998
 IMF 18.5%
 가 1999 29.2% .

< 4-2>

()



: , 「1999 , 2000.

1990 , <

4-2>

1995

가

.27)

(1)

1980

50

1998

92

,28)

5

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)

27) 1998

.

가 .

28)

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(

).

85% .29)

< 4-4>

(:)

	1994	1995	1996	1997	1998	1999
(A)	1,278,552	1,280,984	1,217,476	1,017,530	895,512	1,155,211
	18,524	64,229	68,060	114,393	97,041	58,854
	94,090	93,305	81,625	70,049	62,573	76,386
	66,366	53,424	38,831	45,871	34,421	28,871
	56,184	56,142	44,384	44,963	81,477	35,547
	1,511	1,379	9,201	32,903	29,993	9,998
	11,909	11,953	13,094	13,194	26,011	17,777
	19,908	25,140	16,927	10,099	14,041	11,259
	10,947	10,333	9,906	9,968	9,922	6,501
(B)	1,646,884	1,721,748	1,635,113	1,492,588	1,369,014	1,520,534
A/B(%)	78	74	74	68	65	76

: , 1999 , 2000.

: 1997 .

1994 78%, 1995 74%, 1997 68%,
1998 65% , 1999 76%

(< 4-4>).

.30)

29) 1999 5 1,354,869 89%

30) , 1999, pp.85-91 .

< 4-5>

.

(:)

	1996		1997		1998		1999	
	451,621	1,635,113 (100)	509,090	1,492,588 (100)	590,390	1,369,014 (100)	475,644	1,520,534 (100)
	4,439	78,821 (5)	5,360	85,026 (6)	7,110	63,422 (5)	8,809	1,228 (6)
,	36,287	255,791 (16)	40,248	216,531 (15)	59,469	246,940 (18)	51,942	265,913 (18)
	275,796	722,741 (44)	324,512	666,166 (45)	383,054	606,984 (44)	276,576	678,919 (45)
	598	5,092 (0)	506	4,033 (0)	499	2,492 (0)	235	1,335 (0)
	8,607	73,808 (5)	8,278	69,240 (5)	12,099	86,127 (6)	12,863	85,515 (6)
,	12,348	36,845 (2)	13,152	34,363 (2)	13,410	27,884 (2)	14,549	31,804 (2)
	40,698	115,052 (7)	38,954	90,445 (6)	41,539	84,555 (6)	42,900	105,623 (7)
	8,849	50,474 (3)	8,760	40,924 (3)	12,036	46,958 (3)	11,322	57,123 (4)
	63,998	296,489 (18)	69,322	285,859 (19)	61,174	203,651 (15)	56,450	203,075 (13)

: , 「 1999 」, 2000.

: () .

, 1999

45%가 ,

18%

.

가

(< 4-5>).

, 1998

, (), , , , 가 가
 . 1993 1998 가 가
 , , (),

가
(< 4-6 >
>).

< 4-6 >

(: , %)

	1993	1994	1995	1996	1997	1998
가	295,203	319,445	281,854	311,550	301,950	286,309
	86,016	99,782	86,199	113,884	75,461	59,577
	69,543	105,571	110,178	68,277	102,874	82,872
	62,836	69,221	89,314	62,791	73,174	47,612
	62,511	78,478	94,820	119,841	174,863	137,248
	59,696	59,419	76,901	64,872	80,350	86,153
	56,355	33,454	38,243	33,553	29,148	29,533
	54,007	54,991	49,553	35,371	30,887	39,140
	42,346	39,256	40,104	32,538	22,184	23,473
	33,223	30,200	24,464	20,862	41,970	32,556
	24,472	71,909	87,889	53,697	1,433	15,327
	22,469	25,776	33,248	22,652	18,597	28,717
	23,590	19,890	20,037	8,954	5,009	5,871
	18,340	10,962	12,208	8,022	3,962	-
	17,462	22,209	23,814	10,996	10,275	14,905
	16,677	11,615	20,489	12,607	11,668	-
	14,233	5,212	9,481	3,105	5,133	4,769
	13,446	25,995	13,043	20,514	8,940	13,801
	12,938	17,873	65,120	57,750	113,598	74,591
	10,566	13,118	14,723	29,299	11,508	11,827
()	7,900	9,522	12,970	10,812	7,680	5,741
	4,144	149	237	230	208	109

: , 「 1999 」, 2000.

(2)

1997 1,045

1997

7

3.3%

1998 IMF

587

. 1999 IMF

가 , 가 1,178

(< 4-3>, < 4-7>).

< 4-7>

(:)

	1993	1994	1995	1996	1997	1998	1999
	44,466	111,831	128,876	217,254	271,543	197,120	413,270
	143,638	176,275	209,928	213,727	176,108	106,178	205,033
	138,396	135,489	143,814	175,902	130,163	84,025	129,816
	40,397	42,323	46,053	58,875	71,650	37,637	107,206
	8,254	27,985	40,362	63,424	67,784	24,925	43,523
	8,706	15,074	14,660	12,906	18,306	11,446	39,549
	542,489	726,267	842,808	1,080,457	1,045,474	587,481	1,178,968

: , 「1999 」, 2000.

, , , , , ,

, 5 80%()

. 1996 ,

1 4 (1999

, 35%) .

< 4-8>

(: M/T,)

	1996		1997		1998		1999	
	526,635	1,080,457 (100)	522,381	1,045,474 (100)	375,224	587,481 (100)	746,327	1,178,968 (100)
	7,920	46,425 (4)	10,221	43,231 (4)	7,982	21,351 (4)	24,595	73,327 (6)
,	16,044	64,082 (6)	14,566	65,431 (6)	7,549	25,427 (4)	27,160	70,795 (6)
	379,905	734,030 (68)	369,458	717,062 (69)	285,064	431,353 (73)	591,363	859,932 (73)
	23	486 (0)	96	687 (0)	133	562 (0)	255	1,495 (0)
	1,142	9,272 (1)	1,751	10,045 (1)	1,777	9,944 (2)	3,337	20,681 (2)
,	12,338	29,393 (3)	20,863	29,631 (3)	18,910	14,028 (2)	26,172	22,308 (2)
	39,091	67,846 (6)	62,017	56,375 (5)	42,181	44,871 (8)	52,706	61,855 (5)
	359	2,104 (0)	318	1,698 (0)	483	1,401 (0)	269	1,276 (0)
	39,812	126,820 (12)	43,090	121,314 (12)	11,146	38,544 (7)	20,470	67,297 (6)

: , 1999 , 2000.
: () HS .

, < 4-8>

4

71%

,

,

.

< 4-9>

(:)

		1991	1992	1993	1994	1995	1996	1997	1998	1999
		211	150	150	184	207	207	156	117	212
		147	160	146	115	108	93	81	26	87
	*	218 (37.8)	196 (38.7)	252 (46.5)	436 (60.1)	528 (62.6)	780 (72.2)	808 (77.3)	444 (75.6)	880 (74.6)
		365 (63.4)	356 (70.4)	398 (73.4)	551 (75.9)	636 (75.4)	873 (80.8)	889 (85.1)	470 (80.1)	967 (82.0)
		576	506	542	726	843	1,080	1,045	587	1,179

: , 「 」, .
: * . ()

, < 4-9>
가 ,
가
(,)

1989 17.1%, 1990
29.3% 가 1994 60%
1997 77.3%, 1998 75.6% 가
1997
가

$$\vdots \quad (\quad).$$

10, 88%, 99%, 97%, 62%, 83%, 68%,

가

() 22 가

21 가, 19 가, 18 가,

15 가 (1999).³¹⁾

31) , 「1999」 (2000) 가

2)

11 . ,
4 5 ,
16 11 ()
18 16 (),
34 40 , ()
1999. 6.30), ()
4
3 2000 4
5 .
1993 4 가
가 가 31 가
1998 9
1999 < 4-11>
620 175% 가 , 45,723 182%
가 83%(491)
가 7%(40), 5%(31),
4%(24)
가 76% , 12%,
4%, 3% .³²⁾

32) , 「1999 , 2000, p.5.

1999 88 0.5% 가
 , 8.6% 가 .
 (), 1996 15%, 1997
 16%, 1998 15%, 1999 18% 4 16%
 .33)

< 4-11>

5

(: ,)

		1995		1996		1997		1998		1999	
		17,448	355,380	23,594	473,570	26,200	458,350	25,012	353,226	45,723	619,562
		1,890	64,982	2,604	69,436	2,488	81,731	6,607	87,560	7,176	87,994
		-	-	-	-	-	-	-	-	379	1825
		-	-	-	-	-	-	-	-	234	42
		1,560	61,786	2,142	66,610	2,129	78,773	5,916	83,303	5,770	81,040
		91	213	172	156	130	272	229	781	209	195
		58	303	103	115	60	145	105	973	166	1,368
		116	2,515	123	2,018	127	2,344	299	2,412	338	2,877
		65	165	64	537	42	197	58	91	80	647
		15,088	263,271	20,771	376,486	23,532	333,973	17,570	249,033	37,608	505,709
		1,949	10,382	2,920	16,803	3,997	15,750	2,351	11,655	7,316	38,133
		5,566	6,429	6,770	7,284	7,515	8,561	4,573	7,300	9,388	23,934
		6,568	235,296	9,813	336,717	10,303	286,174	9,024	207,123	18,546	410,277
		345	1,205	402	1,681	596	2,300	522	1,523	826	3,463
		621	9,424	810	13,296	1,101	20,959	1,069	21,133	1,503	29,523
		39	535	56	705	20	229	31	299	29	379
		409	24,986	112	25,634	111	40,405	628	14,972	566	24,326
		126	19,565	46	21,645	54	36,072	186	10,717	78	20,203
		144	1,021	51	822	47	1,274	336	922	360	809
		139	4,400	15	3,167	10	3,059	106	3,333	128	3,314
		61	2,141	102	2,014	69	2,241	207	1,661	373	1,533
		37	221	49	350	31	246	134	546	355	1,391
		24	1,920	53	1,664	38	1,995	67	833	18	142
		-	-	-	-	-	-	6	282	-	-

: , 「1999」, 2000.
 : () HS .

33) < 4-5> < 4-11>
 < 4-3>

< 4-12>

(: , ,)

	1999			1998			(%)		
	(A)	(B)	(C)	(D)	(E)	(F)	A/D	B/E	C/F
	7,176	87,994	186,373	6,607	87,560	231,658	109	100	80
	43	33	77	38	234	359	113	14	21
	111	1,031	8,635	143	1,157	8,122	78	89	106
	166	14,910	8,617	44	1,540	1,219	377	968	707
	152	3,072	8,759	95	2,833	5,262	160	108	166
()	1	200	408	20	1,100	2,549	5	18	16
	127	699	3,255	249	1,433	8,515	51	49	38
	18	6,844	9,624	81	10,515	19,205	22	65	50
	31	5	85	130	341	2,790	24	1	3
	217	15,903	12,760	251	18,108	22,966	86	88	56
	4,152	33,901	91,867	4,205	39,910	127,070	99	85	72
	4	29	52	54	677	751	7	4	7
	179	857	6,745	157	804	6,228	114	107	108
	32	773	2,044	19	529	1,589	168	146	129
	1,943	9,737	33,445	1,121	8,379	25,033	173	116	134

: , 「 1999 」, 2000.

< 4-13>

가

(: , ,)

가	1999			1998			(%)		
	(A)	(B)	(C)	(D)	(E)	(F)	A/D	B/E	C/F
	7,176	87,994	186,373	6,607	87,560	231,658	109	100	80
	205	743	2,519	181	1,992	5,310	113	37	47
	121	1,444	3,323	143	1,877	3,766	85	77	88
	150	1,532	4,376	170	1,478	3,459	88	104	127
	331	1,099	2,686	307	1,791	5,724	108	61	47
	405	5,477	11,589	519	10,502	31,342	78	52	37
	472	3,477	15,704	480	2,961	17,366	98	117	90
	274	1,920	4,662	274	2,265	6,911	100	85	67
	1,052	12,552	37,343	1,182	14,637	49,545	89	86	75
	1,011	10,904	24,987	923	14,502	35,828	110	75	70
	643	1,218	10,302	213	1,044	7,816	302	117	132
	393	15,648	25,063	409	20,098	26,161	96	78	96
	236	3,040	7,766	345	3,828	12,080	68	79	64
	184	16,295	9,555	19	1,428	1,128	968	1141	847
	8	2,910	1,559	6	441	331	133	660	471
	16	973	1,385	22	221	917	73	440	151
	1,675	8,762	23,554	1,414	8,495	23,974	118	103	98

: , 「1999」, 2000.

< 4-14>

(: , ,)

	1999			1998			(%)		
	(A)	(B)	(C)	(D)	(E)	(F)	A/D	B/E	C/F
	37,608	505,709	961,179	17,570	249,033	436,608	214	203	220
	208	6,464	4,012	167	4,383	2,571	125	147	156
	938	16,237	33,546	695	12,506	24,461	135	130	137
	1,610	22,816	34,738	979	15,250	18,786	164	150	185
	552	17,209	18,533	199	10,606	10,313	277	162	180
	756	63,775	38,161	164	8,257	5,708	461	772	669
	1,085	14,002	43,743	755	9,616	22,420	144	146	195
	606	14,095	138,974	470	13,693	59,457	129	103	234
	257	19,955	15,778	130	17,689	12,349	198	113	128
	2,740	58,161	139,438	1,126	20,556	54,564	243	283	256
	1,363	8,556	48,084	603	4,160	24,880	226	206	193
가	317	19,631	11,958	204	23,640	15,257	155	83	78
	398	21,255	15,561	108	3,542	3,347	369	600	465
	301	7,027	7,906	214	5,121	6,056	141	137	131
	1,765	7,117	22,665	1,059	2,071	7,693	167	344	295
	475	6,241	12,275	215	3,207	4,650	221	195	264
	691	16,009	7,219	572	12,402	5,655	121	130	128
	23,546	187,069	368,588	9,910	82,334	158,441	238	227	233

: , 「 1999 」, 2000.

< 4-15>

가

(: , ,)

	1999			1998			(%)		
	(A)	(B)	(C)	(D)	(E)	(F)	A/ D	B/ E	C/ F
	37,608	505,709	961,179	17,570	249,033	436,608	214	203	220
	1,335	89,066	146,702	601	32,327	37,638	222	276	390
	2,962	44,023	74,762	2662	33,149	43,383	111	133	172
	18,524	221,145	408,086	7845	111,949	196,347	236	198	208
	141	9,807	7,339	91	9,894	5,973	155	99	123
	5,978	39,448	118,914	1859	19,466	62,106	322	203	191
	856	8,376	13,673	671	6,069	8,466	128	138	159
	172	2,594	2,722	143	1,444	2,090	120	180	130
	830	8,569	13,673	411	5,601	6,909	202	153	198
	1,466	11,429	26,537	570	4,563	8,199	257	250	324
	1,238	8,099	37,085	571	3,916	18,759	239	207	198
	504	17,354	18,742	91	1,778	4,079	554	976	459
	3,602	45,799	93,125	2109	18,877	42,659	171	243	218

: , 「1999 」, 2000.

1999

가

, , , ,

5

81%

,

가

1998 1,778

1999 17,354

976%

가

(< 4-15>).

1993 4

가 ,

,

< 4-16>

(: , ,)

	1999			1998			(%)		
	(A)	(B)	(C)	(D)	(E)	(F)	A/D	B/E	C/F
	939	25,859	48,820	835	16,633	48,649	112	155	100
°	373	1,533	8,822	207	1,661	7,410	180	92	119
-	3	2	28	1	-	4	300	-	700
-	-	-	-	1	1	125	-	-	-
-	12	59	246	9	67	346	133	88	71
-	-	-	-	1	1	180	-	-	-
-	118	472	1,930	47	250	948	251	189	204
-	120	395	4,857	77	229	3,079	156	172	158
- 가	120	605	1,761	67	833	2,410	179	73	73
-	-	-	-	1	1	200	-	-	-
-	-	-	-	1	89	35	-	-	-
-	-	-	-	2	190	83	-	-	-
°	566	24,326	39,998	628	14,972	41,239	30	162	97
-	-	-	-	3	1,655	1,745	-	-	-
-	42	69	656	69	497	5,999	61	14	11
-	12	11,658	12,282	1	601	680	1,200	1,940	1,806
-	4	4	23	82	687	6,614	5	1	-
-	8	7,322	8,661	3	4,361	3,742	267	168	231
-	12	1,150	2,216	28	2,916	4,842	43	39	46
-	2	50	437	11	147	1,806	18	34	24
-	358	759	11,935	321	739	11,408	112	103	105
-	128	3,314	3,788	106	3,333	4,123	121	99	92
-	-	-	-	4	36	280	-	-	-

: , 「 1999 」, 2000.

, 36)

36) , “ ”, 「 」, 925 , 1999. 3. 15.

(+) 1995
 7.6%, 1996 5.8%, 1997 9.3%, 1998 4.7%, 1999 4.2%
 5 6.3% (< 4-11>).
 1999 24,326
 162% 가 , 1,533 8%
 . 가
 (1999) , , ,
 , , , , , ,
 10 ,
 , 1999 , 가 , ,
 10 (< 4-16>).

< 4-17>

(: , ,)

							(%)		
1999 (A)	37,608	505,709	961,179	289	1,957	4,282	0.8	0.4	0.4
1998 (B)	17,570	249,033	436,608	92	584	1,299	0.5	0.2	0.3
1997	23,532	333,973	885,924	258	2,362	6,345	0.5	0.2	0.3
(A/B)	214	203	220	314	335	330	160	200	133

: , 「 」, .

1999 289 1,957

314%, 335% 가 .

IMF 1998 ,

.

1997 0.5%, 1998 0.5%, 1999 0.8% ,

1997 0.2%, 1998 0.2%, 1999 0.4% (< 4-17>).

< 4-18>

가

(1999)

(: , ,)

							(%)		
(17)	37,608	505,709	961,179	289	1,957	4,282	0.8	0.4	0.5
	18,524	221,145	408,086	204 (71)	1,286 (66)	2,777 (65)	1.1	0.6	0.7
	1,335	89,066	146,702	1	254 (13)	40	0.1	0.3	0.0
	504	17,354	18,742	34 (12)	164 (8)	923 (22)	6.8	1.0	4.9
	42	926	1,126	4	136 (7)	198 (5)	9.5	14.7	17.6
	5,978	39,448	118,914	10 (4)	34	173 (4)	0.2	0.1	0.2
	419	1,207	6,615	8	27	14	1.9	2.2	0.2
	1,238	8,099	37,085	2	21	26	0.2	0.3	0.1
	856	8,376	13,673	11 (4)	16	83	1.3	0.2	0.6
	1,466	11,429	26,537	3	1	2	0.2	0.0	0.0
	2,962	44,023	74,762	1	1	1	0.0	0.0	0.0
(7)	4,284	64,636	109,118	11	17	45	0.3	0.0	0.0

: , 「1999 , 2000.

: 가 . () .

1999 가

1,957 1,286 66% , 289 204 71%

13%, 8%, 7%, , , ,

, 가 가
가 . 가

가 (< 4-18>).

가

가 가 14.7% ,
2.2%, 1.0%, 0.6%, 0.3%

. 가 9.5% 가 ,

6.8%, 1.9%, 1.3%, 1.1%

(< 4-18>).

가 428 (116) 가 ,
 (254 , 1), (219 , 20), (216 , 6),
 (133 , 14), (98 , 5), (72 , 11),
 (537 , 116) .³⁷⁾
 (-),
 (-), (- ,
 -), (- •),
 (-), (-
 - •), (-
) .³⁸⁾

가 . 2000 8 9
 ,
 가 4.9% 가 , 2.7%, 0.2%
 .³⁹⁾

3 .

WTO . ,
 ,
 .
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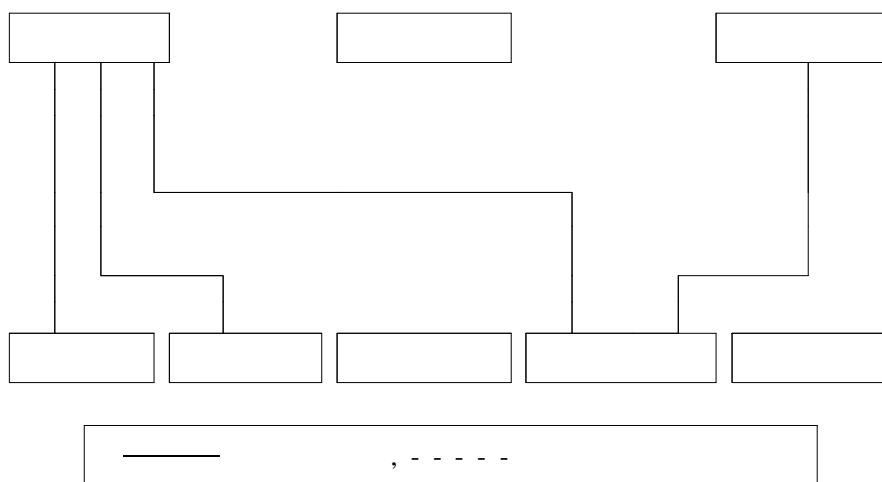
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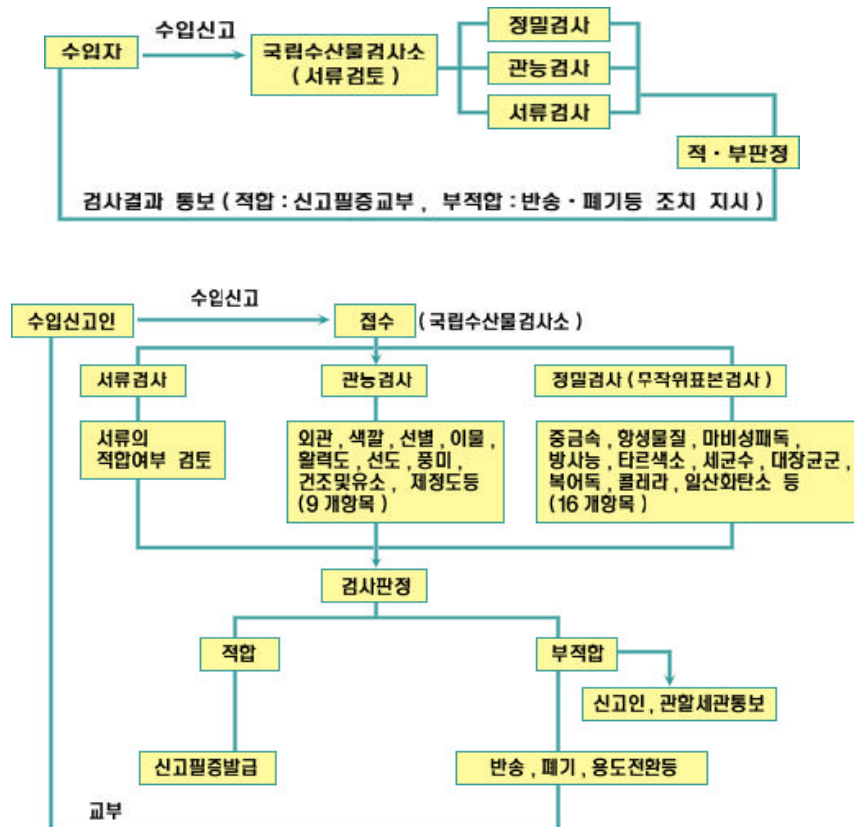
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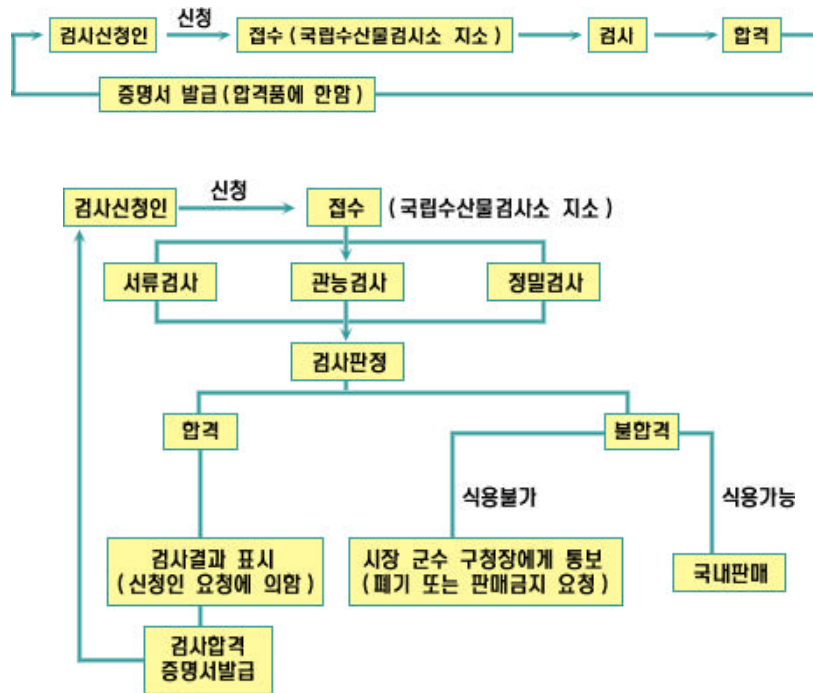
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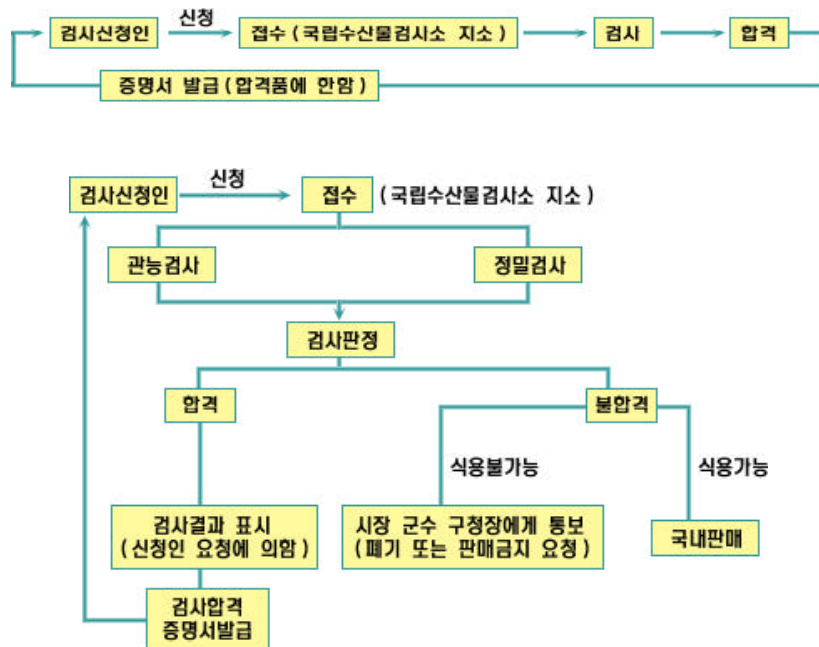
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2 : GUIDELINES TO FURTHER THE PRACTICAL IMPLEMENTATION OF ARTICLE 5.5

At its meeting of 21-22 June 2000, the Committee adopted* the following guidelines called for in Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures to further the practical implementation of that provision.

*At its meeting, the Committee adopted the guidelines on an ad referendum basis. Members who objected to the adoption of the guidelines were asked to make this known by 14 July 2000. No objections were raised by that date.

INTRODUCTION

Article 5.5 of the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") states that:

With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

The following guidelines are intended to provide assistance to Members in the practical implementation of the provisions of Article 5.5 of the SPS Agreement. These guidelines do not add to nor detract from the existing rights and obligations of Members under the SPS Agreement nor any other WTO Agreement. These guidelines do not provide any legal interpretation or modification to the Agreement itself. The guidelines are without prejudice to the right of a Member to determine its appropriate level of sanitary and phytosanitary protection against risks to human life or health, or to animal and plant life or health.**

** "Risk" in the context of the SPS Agreement refers to the *likelihood* that an adverse event (pest or disease) will occur and the *magnitude of the associated potential consequences* on plant or animal life or health of the adverse event, or to the *potential for adverse effects* on human or animal life or health from food-borne risks. See paragraph 4, Annex A of the SPS Agreement.

The guidelines address the two elements within Article 5.5: (1) the objective of achieving consistency in the application of the concept of the appropriate level of protection and (2) the obligation to avoid arbitrary or unjustifiable distinctions in the levels considered appropriate if such distinctions result in discrimination or a disguised restriction on international trade. The determination of the appropriate level of protection is an element in the decision-making process which logically precedes the selection and use of one or more sanitary or phytosanitary measures. The following guidelines therefore address the application of the concept of the appropriate level of protection, and subsequently its practical implementation.

The comments accompanying the guidelines are designed to facilitate understanding of the guidelines through the provision of examples and further clarifications. These comments and examples are purely illustrative and not

intended to be exclusive or complete.

The guidelines will be reviewed periodically and revised as necessary by the SPS Committee in the light of experience gained through the implementation of the SPS Agreement, the use of the guidelines themselves and any pertinent work done by the relevant international standard-setting organizations.^{***} The Committee should undertake a first review of the guidelines within 36 months of their adoption by the Committee and thereafter as the need arises.

^{***}As indicated in Annex A, paragraph 3.

A. Application of the concept of the appropriate level of protection

A.1. A Member should indicate the level of protection which it considers to be appropriate with respect to risks to human life or health, to animal life or health or to plant life or health in a sufficiently clear manner so as to permit examination of the extent to which any sanitary or phytosanitary measure achieves that level.

Such an indication may be contained in a published statement or other text generally available to interested parties. The statement of the appropriate level of protection may be qualitative or quantitative, and should serve to guide its consistent implementation over time, and also to increase the transparency of the sanitary or phytosanitary regime. Examples might include government policy statements with regard to appropriate levels of protection in response to certain risks, or documents on animal health protection objectives or with respect to plant protection. The use of quantitative terms, where feasible, to describe the appropriate level of protection can facilitate the identification of arbitrary or unjustified distinctions in levels deemed appropriate in different situations.

A.2. A Member should, when determining an appropriate level of protection, either as an overall policy objective or for a specific situation, consider:

whether there is a difference between the level of protection under consideration and levels already determined by the Member in different situations and, if so,

whether these differences are arbitrary or unjustifiable, and, if so, whether they may result in discrimination or in a disguised restriction on international trade.

The comparison of levels of protection in different situations requires the existence of sufficient common elements to render them comparable and must be performed on a case-by-case basis. In the case of protection of plant or animal life or health from pests or disease, situations might be compared if they involve either the risk of entry, establishment or spread of the same or a similar disease, or the risk of the same or similar associated potential biological and economic consequences. In the case of protection of human life or health from specific risks, i.e. food-borne risks, or of animal life or health from risks arising from feedstuffs, situations involving the same type of substance or pathogen, and/or the same type of adverse health effect, could be compared to one another.

The determination of whether differences in appropriate levels of protection are arbitrary or unjustifiable depends on the particular case and has to be determined on a case-by-case basis. The establishment of different levels of protection in the face of similar risks in different situations may raise the question as to whether the differences in the levels of protection are arbitrary or unjustifiable.

The determination of whether arbitrary or unjustifiable differences in levels of protection established by a Member in different situations do in fact result

in discrimination or a disguised restriction on trade should be examined in the context of the circumstances of each case, including the potential effects on international trade. Although no precise definition of "discrimination or a disguised restriction on international trade" currently exists, cumulative occurrence of the following "warning signals" could indicate the existence of discrimination or a disguised restriction on trade:

substantial differences in the levels of protection considered to be appropriate in different situations;

the existence of arbitrary or unjustifiable differences in the levels of protection considered by a Member as appropriate in different situations;

the absence of a scientific justification for a sanitary or phytosanitary measure applied allegedly to achieve the appropriate level of protection, or the fact that a measure is not based on a risk assessment as appropriate to the circumstances (either because there is no risk assessment or because there is an insufficient risk assessment).

A.3. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection.

An important element in seeking to ensure that decisions on an appropriate level of protection meet the provisions of Article 5.5 is information and communication. The authorities responsible for the preparation and implementation of such decisions should be aware of relevant decisions taken by that Member in other cases, and particularly in situations comparable to the one at hand.

A.4. To avoid arbitrary or unjustifiable differences in the level of protection a Member considers to be appropriate in different situations, a Member should compare any proposed decision on the level of protection in

a particular situation with the level it has previously considered or is considering to be appropriate in situations which contain sufficient common elements so as to render them comparable with regard to human life or health, to animal life or health, or to plant life or health.

It can be useful to compare a proposed appropriate level of protection with previous decisions, including those that might have been taken in an ad hoc fashion, to ensure that any differences in levels of protection applied in a similar situation are justifiable and would not result in discrimination or a disguised restriction on international trade. If differences are observed in comparable situations, either the proposed level may need to be modified, or the level of protection previously determined may need to be revised in light of the Member's current views on its appropriate level of protection, or a combination of the two.

What a Member is comparing are the levels of protection against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur and the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihood and the corresponding consequences. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various risks they are examining into groups of what they consider to be similar. (See also the first comment to guideline A2.)

The comparison of the levels of protection considered appropriate in one situation with those considered appropriate in another situation can be facilitated if the potential damage is expressed in common terms, whether qualitative or quantitative. Where feasible, use of quantitative terms and/ or

common units can facilitate comparisons.

A.5. In determining a new or modified appropriate level of protection, a Member should review its previous decisions regarding appropriate levels of protection in the light of the objectives and obligations of Article 5.5, taking into account current decisions and developments.

In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of those decisions which most substantially deviate from the objectives and obligations of Article 5.5 and which may have the most negative impact on international trade.

Unless changes are made at the same time to all its comparable decisions on appropriate levels of protection, a Member may find it difficult to avoid (at least temporary) unjustifiable differences in levels of protection.

A Member should review its previous decisions on appropriate levels of protection at suitable intervals.

A.6. In determining a new or modified appropriate level of protection a Member may find it helpful to examine any relevant international standards, guidelines or recommendations, or decisions taken by other Members facing similar risks and situations.

Notwithstanding that it is the right of each Member to determine its appropriate level of protection and that there is no obligation for a Member to harmonize its level of protection with that of other Members, comparisons with the level of protection other Members have considered appropriate when addressing similar risks and situations may assist a Member in making its own decision.

Likewise, significant differences between the level of protection which would result from the application of the relevant international standard, guideline or recommendation and the level of protection which a Member is considering may prompt the Member to re-consider its proposed level of

protection.

A.7. A Member may consider seeking expert advice to contribute to its decision-making process with regard to the determination of a new or modified appropriate level of protection.

Advice may be sought from recognized, qualified experts, and could include commenting on any unjustifiable distinctions in levels of protection, potential discriminatory trade effects or other aspects related to consistency in the application of its appropriate level of protection. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.

A.8. A Member should clearly identify those situations which it considers justify its acceptance exceptionally of a lower level of protection for human health specifically with respect to risks to which people voluntarily expose themselves.

Reasons for a significant difference in a proposed or accepted level of protection for human health may, in exceptional circumstances, include a risk which humans voluntarily accept. Such circumstances might arise with respect to traditional foods or some other products for which consumers knowingly accept a higher risk than that generally considered to be appropriate for food products.^{****}

^{****}Examples which were identified during the negotiation of this provision include the consumption of alcoholic beverages, or substantial consumption of some traditional foods such as smoked fish, or of varieties of fish known to be toxic.

B. Practical implementation of the concept of an appropriate level of protection

The SPS Agreement does not contain explicit provisions which oblige a Member to determine its appropriate level of protection, although there is an implicit obligation to do so. In practice, and for various reasons, Members are not always able to indicate precisely their appropriate level of protection. In such cases, the appropriate level of protection may be determined on the basis of the level of protection reflected in the sanitary or phytosanitary measures in place. Therefore, to further the practical implementation of this provision, the following guidelines address the selection and use of measures. This is without prejudice to the other provisions of the SPS Agreement which relate to measures, which the Committee may decide to address separately.

B.1. A Member should establish clear and effective communication and information flows within and between the authorities responsible for the determination of appropriate levels of protection, and those responsible for the selection and implementation of sanitary or phytosanitary measures designed to achieve the appropriate level of protection.

Since the concept of appropriate level of protection is applied in practice through sanitary or phytosanitary measures, communication and transparency between the government authorities responsible for the selection and implementation of sanitary or phytosanitary measures and those responsible for the determination of the appropriate level of protection is an important element in enhancing consistency.

B.2. A Member should establish common approaches or consistent procedures for use by the authorities assessing risks and evaluating the measures which might be applied to achieve the desired levels of protection. In particular, a common approach should be developed with respect to risks

affecting human life or health, a common approach for consideration of risks to animal life or health, and a common approach for risks to plant life or health.

Clearly identified, comprehensive and consistent procedures for assessing risks and for evaluating measures to reduce risk to acceptable levels will assist a Member to be more consistent in the application of its appropriate level of protection.

What a Member is comparing are the measures against the risks posed by potential hazards to human, animal or plant life or health. Risk in the context of the SPS Agreement refers to the likelihood that an adverse event (pest or disease) will occur and the magnitude of the associated potential consequences on plant or animal life or health of the adverse event, or to the potential for adverse effects on human or animal life or health from food-borne risks. (See paragraph 4, Annex A of the SPS Agreement.) Accordingly, categorizing risks as "similar" must include a comparison of both the relevant likelihoods and the corresponding consequence. To facilitate comparison of levels of protection considered appropriate in different situations, Members may wish to categorize the various hazards they are examining into groups of what they consider to be similar.

To the extent possible, risk should be assessed using the principles and procedures developed by the relevant international standard-setting organizations, taking into account the nature of the hazards in question.

B.3. A Member should compare any proposed measure intended to achieve the appropriate level of protection in a particular situation with other sanitary or phytosanitary measures it has taken, or is considering, with regard to human life or health, to animal life or health, and plant life or health in situations which present sufficient common elements so as to render them comparable.

Since the concept of an appropriate level of protection is applied through

the selection and implementation of a sanitary or phytosanitary measure (or measures), such a comparison can be useful to ensure the consistency of the proposed measure with any previous measures designed to achieve the same level of protection in situations which present sufficient common elements so as to render them comparable.

B.4. A Member should routinely review existing measures applied to achieve its appropriate level of protection in accordance with the objectives of guideline A.5, taking also into account current decisions and developments.

In undertaking this review, a Member may wish to give priority to the review and revision, as necessary, of the measures applied to achieve the appropriate levels of protection reviewed in accordance with guideline A.5.

B.5. In considering a measure to achieve an appropriate level of protection in a particular situation, a Member should determine whether a relevant international standard, guideline or recommendation exists, and if it does, whether adoption of it would achieve the Member's appropriate level of protection.

Comparisons with the manner in which an international standard, guideline or recommendation would address a particular risk may assist a Member in clarifying its own decision. Significant differences in the measure applied by a Member to address assessed risk compared to the measures that would result from the application of a relevant international standard, guideline or recommendation, may encourage the Member to reconsider whether it is acting in accordance with its obligations under the SPS Agreement.

B.6. In considering a proposed measure to achieve its appropriate level of protection in a particular situation, a Member may find it helpful to examine measures applied by other Members facing similar risks and situations.

Notwithstanding that there is no obligation for a Member to harmonize its measures with those of other Members, significant differences in the measures applied by a Member in order to address a particular risk compared to the measures applied by other Members facing similar risks and situations, and in particular measures which are less restrictive of trade, may prompt the Member to reconsider whether it is acting consistently with its obligations under the SPS Agreement. The Member should in particular compare its proposed measure with those applied by other Members seeking a similar level of protection from risks.

B.7. A Member may consider seeking expert advice on the selection and implementation of sanitary and phytosanitary measures to achieve its appropriate level of protection.

Advice may be sought from recognized, qualified experts, and could include commenting on any potential discriminatory trade effects arising from specific sanitary and phytosanitary measures. A Member may seek assistance from the relevant international standard-setting organizations in identifying appropriate experts.