

Analysis on the Modification of Article 5, Paragraph 2 of the WTO's SPS Agreement

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Abstract: Against the backdrop of the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), this study explores how health security measures affect international trade in the context of globalization, particularly in the context of global health crises such as COVID-19. Through an in-depth analysis of the provisions of the SPS Agreement and international trade data, as well as previous studies and case studies, the study made three key recommendations: enhancing transparency in risk assessment, promoting public participation in health policy-making, and facilitating the establishment of mechanisms for cross-border cooperation. These recommendations aim to ensure that member countries not only follow scientific principles when implementing sanitary and phytosanitary measures, but also reduce unnecessary barriers to trade and promote the sustainable development of global trade. The conclusions of the study highlight that these improvements can effectively alleviate the trade uncertainty that may be brought about by health security measures, thereby protecting public health and promoting the healthy growth of international trade.

Keywords: WTO, SPS Agreement, International trade, Public health crisis.

1. Introduction

As trade globalization has developed, the connections between countries have become increasingly close. However, sudden global health crises can lead countries to make decisions that harm humanity as a whole in order to protect their own interests. Members attempt to block viruses or other risks at their borders, but the resulting international trade frictions also hinder the development of international trade. According to Chinese customs statistics, from January to February 2020, China's exports to ASEAN fell by 3.6%, exports to the EU fell by 17.1%, exports to the United States fell by 26.5%, and exports to Japan fell by 23.3%. According to such a date, people can find that the sudden public health crisis relates to world trade very closely. When a public health crisis arises, if there is no effective response, it will further damage world trade. As a WTO agreement specifically designed to adjust the conflicts between health security and international trade, the *Sanitary and Phytosanitary Measures Agreement* (SPS Agreement) is of great importance to humanity as a whole. It is a critical agreement aimed at ensuring that member countries do not create unreasonable trade barriers when implementing measures related to the health of animals and plants.

The agreement is based on scientific principles, transparency, and non-discrimination, allowing member countries to implement necessary sanitary measures based on scientific evidence to protect

human, animal, or plant health. The goal of the SPS Agreement is to promote international trade while protecting public health and the health of animals and plants. In this article, after a thorough understanding and research, we will propose modifications to the unreasonable parts of the agreement. For Article 5, Paragraph 2 of the WTO's SPS Agreement, is there a need for more specific risk assessments to ensure the elimination of risks? Should the results of risk assessments be made public in addition to conducting risk assessments? The public disclosure should include specific information on risks, comprehensive response strategies, and the actual impact on the country. This study aims to study the issue by combining international trends, past global health crises, and proposing optimization suggestions for the article to advance the global trade development process.

2. Analysis of the problem

Pandemics such as SARS, COVID-19, Ebola, Marburg, Lassa fever and MERS always occur and persist.

In Chinese mainland, 6,390 foodborne disease outbreaks were reported in 2019, resulting in 38,797 cases of illness and 134 deaths [1], and foodborne disease outbreaks have a huge impact and burden on society. This figure is a five-fold increase from 2013 [2]. In addition, 44% (2818/6390) of outbreaks lacked a clear cause [3], highlighting the challenge of providing accurate patient care and the urgency of strengthening on-site investigation capabilities. Therefore, more effective intervention policies are needed to prevent the occurrence and harm of foodborne diseases. Ideally, intervention policies should be localized to the epidemiological characteristics of foodborne disease outbreaks in specific areas. However, data analysis or research on the characteristics of the outbreak in China is scarce [4]. The usefulness of epidemic data from different regions is also limited due to the variability of the data [5]. (Excerpted from "A Risk Modeling Method Using Enterococci as an Indicator of Salmonella Growth Potential in Pork" for setting microbial limits).

The majority of foodborne illness outbreaks in Guangzhou between 2017 and 2021 were related to canteens, with the main causes including food contamination and *Vibrio parahaemolyticus*. Key interventions should include raising public awareness of food safety and improving hygiene training and canteen management [6]. Microbial control plays an important role in the production of ready-to-eat products, and advanced technologies such as high-throughput sequencing have the potential to be applied in monitoring microbial composition and risk management [7]. During the COVID-19 pandemic, secondary infections with bacteria and fungi have increased the use of antibiotics and other medications, which can lead to increased resistance issues. Although current evidence for bacterial infection with COVID-19 is limited, studies have highlighted the importance of limiting antibiotic use. It is recommended to establish COVID-related antimicrobial strategies to avoid exacerbating microbial resistance in wastewater, while emphasizing the importance of vaccination, precautions, and personal hygiene in controlling the spread of infectious diseases [8].

This question has attracted the attention of scholars. Scholar Meifang Zhou from China -- said that COVID-19 has increased the uncertainties facing the already sluggish world economy, which has a negative impact on global political and economic stability and poses a serious threat. At the same time, the new crown epidemic has significantly impacted the macro economy, financial markets, industrial structure, consumption and value chain. for final consumption (relative to baseline). The service industry suffers the most from the outbreak, and the Accommodation-Food-Beverage service, Wholesale-Retail Trade, and Transport-Storage-Post are identified as the most vulnerable sectors, with the negative impact on output reaching as high as 14.6 [9].

Including COVID-19, the cause is that someone ate a bat carrying the virus, so foodborne diseases are sudden and dangerous, which cannot be ignored. A multi-country survey was conducted in 16 countries, involving 825 food companies. Based on the results of the survey, it is obvious that the

level of maturity of a food safety system in place is the main trigger for classifying companies and their responses to the pandemic challenge [10].

Some member states did not conduct systematic risk assessments on local health and plant health in time and did not make the information public in time, which led to other countries not leaving enough time and resources to develop local response strategies, resulting in a very serious global health crisis. Therefore, timely and specific risk assessments and public disclosure of risk assessments are extremely important for the safety and stability of all human beings.

3. Revision suggestions

Take all things into consideration, some suggestions are given as follows.

3.1. Enhanced transparency in risk assessment

Members shall make public the methods, information, and decision-making processes used in risk assessment. This change can help reduce unnecessary misunderstandings and trade disputes. It is therefore recommended that the SPS Agreement be amended to require member countries to disclose detailed methodologies, data sources and assessment results when developing and implementing risk assessments, so that the international community and relevant stakeholders can review and validate the basis and rationale of the measures. It helps to reduce misunderstandings and trade disputes, and increases trust between parties. In the field of sanitary and phytosanitary (SPS), transparency means not only the disclosure of the methods and data used, but also the openness of the decision-making process to ensure that the decision-making is scientific and fair.

3.2. Greater public participation

Members shall encourage public participation in the development and implementation of sanitary and phytosanitary measures. The revision of the agreement should encourage Member States to establish effective public participation mechanisms, such as public consultation, social consultation and information transparency, in the process of policy formulation and implementation, so as to ensure public participation in decision-making and legitimacy. This change can enable more people to be informed about health crises, enabling them to effectively protect themselves while also being able to monitor and advise government agencies.

3.3. More specific risk assessments and measures

Members shall provide more detailed and comprehensive records of the plant and animal species within their territories, establish a special group to study the risks posed by these plant and animal species, including the risk of viruses or invasive species, and take isolation, relocation, and confinement measures for these plant and animal species that pose health risks.

In implementing the above-mentioned recommendations, the revision of the Agreement should take full account of the actual situation and capabilities of the Member States and be carried out in a phased and step-by-step manner. This would not only help to avoid an undue burden on Member States, but would also better facilitate international cooperation and information sharing. In addition, in order to ensure the implementation and effectiveness evaluation of the Agreement, it is recommended that an independent review mechanism be established to regularly assess and monitor the risk assessment and management measures of Member States to ensure the effectiveness and continuous improvement of the implementation of the Agreement.

Based on the above analysis, Article 5, Paragraph 2 of the SPS Agreement may be modified as follows: in conducting risk assessments, members shall take into account available scientific evidence;

production processes and methods; inspection, sampling, and testing methods; prevalence of specific diseases or pests; the existence of pest-free areas; ecological and environmental conditions; and quarantine or other treatment methods. In addition, member countries should establish a special task force to study these plants and animals, identify potential risks, and take appropriate measures. The results should be made public in the United States and other countries.

3.4. Conclusion

In the context of globalization, the WTO's Sanitary and Phytosanitary Measures Agreement (SPS Agreement) serves as an important legal framework for reconciling health security with international trade, and has significant academic and practical significance. This paper, using the example of global health crisis events such as COVID-19, reveals the critical importance of health risk assessment and information disclosure. Without adequate risk assessment and transparent disclosure, member states may take biased measures to serve their own interests, which could have serious impacts on international trade and the global economy. It not only fosters trust and cooperation among member states, but also promotes public understanding and support for health measures while promoting coordination and cooperation in the international community in responding to global health challenges, which will contribute to achieving a win-win situation between public health and international trade. This not only aligns with the objectives of the SPS Agreement and the WTO, but also contributes to sustainable economic development and healthy growth of the global economy.

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