



Conference:

"Four degrees of freedom of the EEU: movement of goods, labor, services and capital. Experience and lessons learned"

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«Application of sanitary, veterinary and phytosanitary measures by EAEU countries in mutual trade».

Nuritdin Dzhamankulov, National consultant on Technical regulation and SPS measures (ADB Project, TA 8978-KGZ)

Definition of SPS Measures (from WTO Agreement)

SPS measure — Any measure applied:

- (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
- (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Definition of SPS Measures (from WTO Agreement)

SPS measures include:

- all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria;
- processes and production methods;
- testing, inspection, certification and approval procedures;
- quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport;
- provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

Harmonization — the establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

WTO approach

Every country has the sovereign right:

- *To Adopt technical regulations, standards, conformity assessment procedures;*
- *To apply SPS measures*

But

It must not create obstacles in international trade

EAEU-WTO

1. *The preamble to the EAEU Treaty contains words :
«Taking into account the norms, rules and principles of the WTO».*
2. *When joining the WTO, Russia and Kazakhstan have pledged that all SPS measures, technical regulations, standards and conformity assessment procedures will be developed and applied, both in Russia and Kazakhstan, as well as in the framework of the EAEU, in accordance with WTO principles and rules (from the WG Reports on accession to the WTO).*

Basic provisions of the EAEU Treaty

Within the framework of EAEU free movement of goods without sanitary, veterinary and sanitary, phytosanitary quarantine control is applied between territories of the member States, except for the cases, provided in this Treaty.

Specificity of the EAEU in the field of technical regulation and application of SPS measures

1. On the relation between technical regulation and application of SPS measures affecting the freedom of movement of goods.

- 1) *Technical regulations on the EAEC foods contain the SPS requirements and procedures.*
- 2) *Principles of technical regulation does not apply to SPS measures.*

Комментарий: *Since the SPS requirements are part of SPS measures, these provisions are inconsistent with each other. It creates unpredictability in the mutual trade.*

Specificity of the EAEU in the field of technical regulation and application of SPS measures

2. On the relation between the EAEU acts and acts of national legislation affecting the free movement of goods:

- 1) *EAEU Acts have links to national regulations.*
- 2) *EAEU Member States shall ensure free circulation of products that meet the requirements of the EAEU technical regulations:*
 - *without additional requirements;*
 - *without additional conformity assessment procedures.*

However, this provision does not apply to the application of SPS measures.

What provides the freedom of movement of goods within the EAEC?:

1. A coordinated policy in the sphere of application of SPS measures.
2. *The Common Lists of products for which established mandatory requirements within the EAEU.*
3. *Common mandatory requirements for products:*
 - *Common sanitary requirements;*
 - *Common veterinary requirements;*
 - *Common phytosanitary requirements.*
4. *Unified Register of certification bodies and testing laboratories.*

What provides a freedom of movement of goods within the EAEC?

- 5. Common rules and procedures for mandatory conformity assessment;*
- 6. Common laboratory test methods.*
- 7. Common conditions of circulation of goods in the single market of the EAEU:*
 - Common forms of documents of compliance;*
 - Single circulation mark in the market of the EAEC..*
- 8. Uniform SPS control procedures of the movement of goods in the territory of the EAEU.*

What can limit the free movement of goods within the EAEU:

- 1. Member States may apply restrictions in the mutual trade of goods by means of application of SPS measures (provided that these measures do not serve as unjustifiable discrimination or disguised restriction on trade)*
- 2. Each member State has the right to develop and implement temporary SPS measures.*
- 3. The lack of effective mechanisms to address trade concerns of expression with the introduction of the SPS measures restricting mutual trade.*

Practice of application of SPS measures in mutual trade within the EAEU

1. There is an inability of the SPS infrastructure to provide the claimed level of SPS protection.

2. There is a lack of standardized procedures for the application of SPS measures based on WTO principles and international standards such as;

- Scientific approach and risk assessment;
- Non-discrimination;
- Regionalization;
- Transparency.

Practice of application of SPS measures in mutual trade within the EAEU:

3. Examples of application of SPS measures that restrict freedom of movement of goods (Note: for further discussion):

1) The presence of country exemptions from the Common list of goods subject to veterinary control (CU Commission Decision of 23.09.2011 No 810). **Brief comment :**

- This is due to the conditions of accession of Russia and Kazakhstan to the WTO;
- A full List is used only in Belarus;
- There is no clarity with regard to Armenia and Kyrgyzstan.

Practice of application of SPS measures in mutual trade within the EAEU:

2). Assessment of equivalence veterinary control system in Kyrgyzstan EAEU requirements.

Brief comment:

- the EAEC Treaty does not establish compulsory assessment system of veterinary control EAEC countries..
- Veterinary control systems of Belarus, Kazakhstan and Russia are recognized to be equivalent without carrying out their assessment (Decision of the CU Commission on October 18, 2011 № 833).

Practice of application of SPS measures in mutual trade within the EAEU:

3) Protocol on certain matters of entry and circulation of goods in the EAEC on 16/10/2015 permits the importation of goods to Kazakhstan from third countries according to veterinary requirements, different from the Uniform Requirements EAEU, and products made from them. Brief comment:

- This Protocol was adopted in the framework of Kazakhstan's commitments on joining the WTO;
- In this case, it can be seen from the perspective of discriminatory restrictions in mutual trade. That is, members of the EAEC are responsible for delivering the goods in Kazakhstan for the Unified veterinary requirements EAEC, while the third countries may bring them less stringent requirements.

Practice of application of SPS measures in mutual trade within the EAEU:

4) In 2016 Kazakhstan had introduced some bans on the import of Kyrgyz products of plant origin as the application of temporary phytosanitary measures.

Brief comment:

- 1. The introductions of such restrictions as SPS measures are not provided on the EAEC Treaty and do not comply with a number of international standards for phytosanitary measures;*
- 2. EEC adopted Decision of 4 October 2016 №114 on abolition of border phytosanitary control.*
- 3. As of November 4, 2016 all restrictions lifted.*

THANK YOU FOR ATTENTION!!!

I AM READY TO ANSWER QUESTIONS!!!

LET'S DISCUSS !!!