



Ministry of Agriculture and Marine Resources

**MODERNIZATION OF
SANITARY AND
PHYTOSANITARY
LEGISLATION**

INFORMATION DOCUMENT

Introduction

The Ministry of Agriculture and Marine Resources received a technical assistance grant from the Food and Agriculture Organization of the United Nations (FAO) to implement a project to modernize sanitary and phytosanitary legislation in compliance with the Agreement on Sanitary and Phytosanitary Measures of the World Trade Organization (WTO). The obligations in the Agreement on Sanitary and Phytosanitary Measures are also found in the Economic Partnership Agreement and due to their relevance to trade will also feature in future trade agreements to which The Bahamas is a party.

In November 2010, technical experts in the areas of animal health, plant health and food safety along with national counterparts engaged the public and private sector in consultations on the existing legal and operational framework for sanitary and phytosanitary measures. The output from those consultations was used to prepare the draft legislation. Three draft bills were prepared in the areas of food safety and quality, animal health and plant protection. The draft bills referred to as the Food Safety and Quality Bill, the Animal Health Bill and the Plant Protection Bill were reviewed during a Validation Workshop held in Nassau from May 9 - 13, 2011.

What is the Agreement on Sanitary and Phytosanitary Measures ?

The Agreement on Sanitary and Phytosanitary Measures, also known as the SPS Agreement, is one of the Agreements found in Annex A of the Marrakesh Agreement which established the World Trade Organization in 1995. The Agreement establishes the rules which countries can use to balance the benefits of free or more liberalized trade with legitimate

concerns to protect human, animal and plant health from imported pests and diseases and to ensure the safety of food.

The SPS Agreement does not set international standards. International standards are set by three standard setting bodies:

SPS Measure	Standard Setting Body
Plant health	International Plant Protection Convention (IPPC)
Animal health and zoonoses	Office International des Epizooties now know as the World Organization for Animal Health (OIE)
Food safety (including food additives veterinary drugs, pesticide residues, contaminants, methods of sampling and codes and guidelines of hygienic practice	Codex Alimentarius Commission (CAC)

What are sanitary and phytosanitary measures?

These are actions taken by Governments to protect animal or human life or health are referred to as 'sanitary measures' and those to protect plant and plant life are referred to as 'phyotsanitary measures'.

The definition of a sanitary or phytosanitary measure is provided in Paragraph 1, Annex A of the SPS Agreement. These are measures which:

- (a) protect animal or plant life or health within the territory of the country from:
 - i. risks arising from the entry, establishment and spread of pests and diseases,
 - ii. disease carrying organisms or disease-causing organisms
- (b) protect human life or health from pest and diseases carried by animals or plants
- (c) protect human or animal life or health within the territory of the country from risks in food, beverages feedstuffs arising from:
 - a. additives
 - b. contaminants
 - c. toxins
 - d. disease causing organisms
- (d) prevent or limit damage due to the entry, establishment or spread of pests and diseases.

Where are sanitary and phytosanitary measures applied by The Bahamas found?

It is stated in Article 1.1 that the SPS Agreement applies to:

all sanitary and phytosanitary measures which directly or indirectly affect international trade” (Article 1.1)

The SPS Agreement is therefore very wide ranging in scope. A review of existing Bahamian legislation indicates that sanitary and phytosanitary legislation currently exists or can be adopted under several pieces of legislation including:

Animal Contagious Diseases Act

Plant Protection Act

Environmental Health Services Act

Food Act

Health Services Act

Customs Management Act

Plant Protection Act

One of the objectives of the modernization exercise is to provide a coherent regulatory framework for all SPS measures under three principle pieces of legislation; Plant Protection, Animal Health and Food Safety. This will result in greater consistency and transparency on SPS measures.

What are some of the sanitary and phytosanitary measures applied by The Bahamas?

The Bahamas uses sanitary and phytosanitary measures to regulate imports and exports. An example of each type of SPS measure is indicated in the examples below:

Example 1:

Sanitary measure applied for animal health reasons

Reason for SPS measure: To protect against the introduction of rabies

SPS Measure: Dogs and cats imported into The Bahamas must be six months of age or older. The animal must be accompanied by a veterinary certificate which substantiates that it has been vaccinated against rabies. In the case of a one year vaccination, the vaccination must have been administered between one and ten months of the date of travel. The animal must be accompanied by a Veterinary Health Certificate and must be presented to a licensed veterinarian within 48 hours of arrival in the Commonwealth of The Bahamas.

Where is the SPS measure found: Animal Contagious Diseases Act, Rabies and Hydrophobia Prevention Regulations

Example 2:

Phytosanitary measure applied for plant health reasons

Reason for SPS measure: To protect against the introduction of plant pest or diseases

SPS Measure: All imports of plant and plant parts must be accompanied by an import permit.

Where is the SPS measure found: Plant Protection Act, Plants Protection Rules

Example 3:

Food safety measure

Reason for SPS measure: To ensure the safety of seafood products

SPS Measure: All seafood products are subject to sensory and scientific analysis to ensure conformity to microbiological and chemical standards.

Where is the SPS measure found: Food Act, The Food (Seafood Processing and Inspection) Regulations

Why is this process to modernize sanitary and phytosanitary measures necessary?

After the WTO was formed in 1995, developing countries were given two years to bring their legislation into conformance with the SPS Agreement. A significant portion of Bahamian legislation predates the establishment of the WTO and does not incorporate the principles of the SPS Agreement. Moreover, since 1995 the international standard setting bodies (IPPC, OIE, Codex) have agreed on a number of standards which need to be incorporated into legislation. Finally, there is a need to ensure coherence on SPS matters to support the regulatory, institutional and procedural changes which need to be made. The modernization of legislation is the first step.

What can be expected from the modernization exercise?

The modernization exercise will set in motion changes in regulations, policies and procedures.

The SPS Agreement contains several principles which will be incorporated into draft legislation. These are:

Harmonization	The principle of harmonization found in Article 3 will mean that future SPS measures (animal health, plant health and food safety) will be based on international standards, guidelines, and recommendations established by the IPPC, OIE and Codex.
---------------	--

Equivalence

The principle of equivalence found in Article 4 will require The Bahamas to accept sanitary and phytosanitary measures which exist in other countries as equivalent, if the measures provide the same level of protection. Further, countries which import from The Bahamas must be given reasonable access to Bahamian inspection, testing and other procedures when requested to determine whether measures adopted by The Bahamas are equivalent. The Bahamas may also enter into bilateral and multilateral agreements to recognize equivalent sanitary and phytosanitary measures of other countries.

Non-discrimination

The principle of non-discrimination is found in Article 2. It states that sanitary and phytosanitary measures should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions exist.

In addition to the legislative changes, compliance with the SPS Agreement will require procedural adjustments which incorporate principles such as:

Transparency

An electronic enquiry point will be established to provide information on sanitary and phytosanitary measures. Except in cases of emergency, The Bahamas will be required to notify WTO Members on changes in measures as

outlined in Article 7 and to permit a 3 month period of comment.

Necessity

This principle found in Article 2 requires that SPS measures should be applied only to the extent necessary to protect human, animal or plant health and should not be maintained without scientific evidence.

Risk assessment

Sanitary and phytosanitary measures should be based on a risk assessment that takes into account scientific evidence, ecological, environmental and environmental factors, potential damage from loss of production due to entry, establishment or spread of pest and diseases, the cost of control and alternate approaches to mitigating the risk.

What will be the impact of the legislation on the private sector?

The legislation will require the private and public sectors to work cooperatively in ensuring that there is an effective agricultural health and food safety system in place.

Some of the specific provisions the private sector can expect are listed below:

With respect to businesses involving plants:

- There will be a registration requirement for all commercial activities.
- All persons and institutions will have responsibility of reporting the occurrence of a new or regulated pest. This will mean that importers, postal services, private shipping companies, port authorities and other enforcement authorities have duty to report regulated items.
- Registered establishments must allow access by Phytosanitary Officers and keep any records as prescribed. They can also be instructed by the National Plant Protection Organization to carry out phytosanitary measures within specific time period.

With respect to businesses involving animals:

- There will be a requirement to obtain a license to carry out commercial activities involving animals.
- Owners will be responsible for the sanitary status of their establishments and must ensure that persons in charge of establishments and workers comply with provisions of Act.
- The slaughter of animal for human consumption will only take place in abattoirs approved by Veterinary Service.

- Owners or operators of international transportation facility, where required by Minister, must maintain laboratory and other facilities for administration of Act.
- All importations must be accompanied by import permit and international veterinary certificate in English and can only be imported through designated ports of entry. These importations will be subject to inspection by the Veterinary Officer at the port of entry during regular business hours.
- The cost of sanitary actions taken will be borne by the importer.

With respect to businesses involved in food:

- There will be a requirement to put in place Good Manufacturing Practices (GMP) and Hazard Analysis Critical Control Point (HACCP) measures.
- Food operators will not be able to sell or distribute food that does not meet safety standards and requirements of Act.
- Food establishments will be required to be licensed and food businesses should display a license and street vendors badge of registration.
- Food operators should progressively implement hygiene practices and HACCP based systems.

- All food operators should:
 - keep records as prescribed
 - maintain a register of employees with names, addresses and other information requested by Authority
 - ensure food handlers in establishments are supervised and instructed or trained in food safety and good hygienic practices commensurate with work duties
 - submit to the Authority within specified period types and quantities of food, data concerning food shipments, food not in compliance with standards in food importing country, summary of incidents or accidents which may have occurred and action taken for food not safe for export
 - establish traceability systems along food chain and to identify person who supplied or to whom they supplied a food producing animal, food or substance intended to expected to be incorporated into food
 - have in place a system to recall food suspected of being unfit for human consumption
 - responsible to take action for food that is recalled to ensure that it is not exported and where it is imported to ensure that it is not released for sale. The cost of calling back the food, analyzing the food product

- or destroying the food product is borne by the food operator
 - follow prescribed good hygienic practices
 - ensure that packages of food bear label in English, which allow traceability as well as any other particular which may be prescribed in regulations
- Street vendors must be registered.
- Medical practitioners, nurses, other sanitary personnel, laboratories, food establishments and other facilities must report incidence of food-related illness to Food Authority and Chief Medical Officer.
- Imported food must be accompanied by prescribed documents including accredited analytical certificate, traceability, technical regulations and labeling information as well as any other prescribed information.
- Costs of inspection, transport, analysis, storage or destruction of food will be borne by the importer.

What will be the impact of the legislation on the general public?

The principal objective of the three pieces of legislation proposed is to safeguard human health as well as animal and plant life. In this regard, the general public can expect more robust and effective regulation through inspection, monitoring and surveillance to ensure that food,

where it enters the food supply from animals or plants or through domestic or imported sources is wholesome and safe. The legislation will also provide a system to safeguard wild and domesticated fauna and flora from pests and diseases.

How will be legislation change the role of the public sector?

The proposed legislation will establish a single agency, referred to as the Bahamas Agricultural Health and Food Safety Agency (BAHFSA) which will coordinate three newly created departments, a Veterinary Authority on animal health matters, a National Plant Protection Organization on plant health issues and a Food Safety Agency on food control. These department will work with public and private stakeholders to provide an effective agricultural health and food safety system.