

**“Essential elements
for the regulation on
import and export
procedures and
veterinary
certification from a
national and a
regional perspective”**

**Regional Seminar for
Member States of the
Common Market for
Eastern and Southern
Africa (COMESA) on**

**Regional Harmonisation of
Legislation in the
Veterinary Domain**

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The SPS Agreement

Recognizing
the right of
WTO member
countries to
protect
human,
animal,
plant life or
health and the
environment...



And...avoiding
unnecessary
barriers to
trade

Article 2 – SPS Agreement – Rules relating to Sanitary measures

1. The right to make Sanitary (& Phytosanitary) Measures necessary for the protection of human and animal health & life and environment - **provided they are in accordance with the SPS Agreement;**
2. Sanitary measures applied **only to the extent necessary** to protect human & animal health & life **and based on scientific principles** and **only maintained if there is scientific evidence;** (exception – Article 5, § 7)
3. Sanitary measures (a) should **not discriminate** between Members **where identical or similar conditions exist**.....and (b) should not be used as a **disguised restriction on international trade;**

From the national perspective a Sanitary measure to restrict import may be taken in order to protect:

Human or animal health → from risks arising from **additives, contaminants, toxins or disease organisms** in food, drink, feedstuff;

Human life → from **plant- or animal-carried diseases**;

Animal or plant life → from **pests, diseases, disease-causing organisms**;

Territory of Member → from **other damage caused by entry, establishment or spread of pests**.

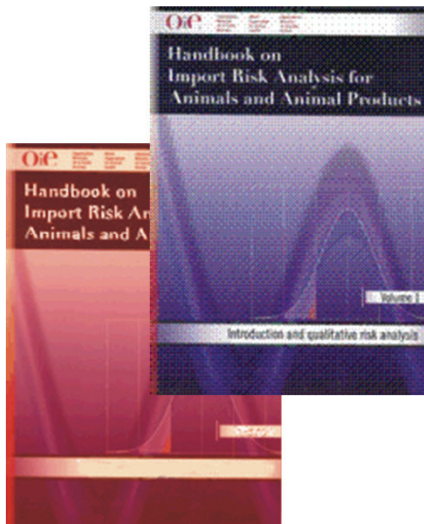
Article 3 – SPS Agreement - Harmonisation

What is the purpose of “Harmonisation” ?

- Mainly to get all Member countries to use the same or similar standards for setting sanitary requirements for imported commodities.....This is not to say that the SPS seeks to achieve “standardisation” – Every risk analysis exercise stands alone and is unique; the sanitary requirements necessary to mitigate the risks being tailored to meet the particular circumstances.....
 - However, if the methodology used to determine risk is uniform (either OIE or Codex standard) then valid comparisons can be made when considering “equivalent” risk management options’ for instance, when negotiating an “Equivalence Agreement” to determine sanitary measures.
- 1 Harmonise Sanitary measures according to international standards (set by OIE & Codex Alimentarius);
 - 2 Sanitary measures which conform to OIE/Codex standards are deemed to be necessary to protect human and animal health & life;
 - 3 Sanitary measures which are stricter than the OIE / Codex standards, may be made, to achieve the “***appropriate level of protection***” provided there is a scientific justification, or the standards are set on the basis of **Article 5 - Risk assessment**.

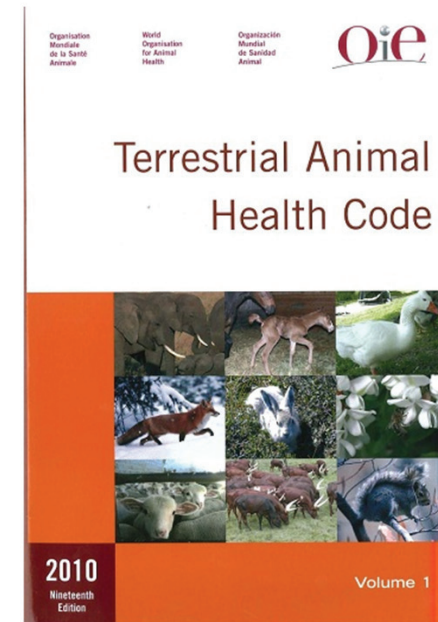
OIE Standards and guidelines / WHO/FAO Codex Alimentarius

- CHAPTER 2.1. Import risk analysis
- CHAPTER 5.10. Model veterinary certificates
- VOLUME 2 Disease chapters
- CODEX ALIMENTARIUS -



Handbook on Import Risk Analysis for Animals and Animal Products

Framework for IRA based on the Terrestrial Code.



Harmonisation opportunities: 1. Use of Language

- Whenever possible adopt the **OIE definitions** in new legislation – e.g. for the following commonly used terms related to Import and Export :–
- “Animal” ; “Commodity”;
- “Competent Authority”; “Veterinary Authority”;
- “Sanitary measure”; “hazard”; “Appropriate level of protection”;
- “Equivalence of sanitary measures”;
- “Official control programme”; “official or authorised veterinarian”;
- “Risk analysis, risk assessment, risk management and risk communication”;
- “Transparency”;
- “Transit / transit country”;
- “Compartment”, “zone or region”.

Always be consistent in the use of terminology

Harmonisation opportunities: 2. Designation & Authorisation of Veterinary Inspectors / Official Veterinarians

- **Standard curriculum** for induction as an authorised Veterinary Inspector (Import/Export) (Standardised official training curriculum) – could be harmonised at Regional level -
- **Job Description** - Identifies chain of command, Provides detailed list of duties and powers for the purpose of Transparency; e.g.
- To ensure technical competence to perform the functions of an inspector – Conduct Risk analysis, Issuance of Import permits and International Veterinary Certificates and conduct of border inspection procedures.
- **Certification - Identity Card & Certificate of Authority - could be harmonised**
- To provide legal authority to inspectors to exercise their powers and perform their functions, provides a means of identifying officially appointed Inspectors – Identity Card, must be worn by Inspector
- **Regional database** of “Official / Authorised – Veterinarians / Inspectors” and specimen signatures ?

Importers - Licensing / registration

- Importers / Traders of animals &/or “commodities” may be licensed or registered by the Veterinary Authority or Ministry of Commerce - helps to ensure all imports of “commodities” are conducted in accordance with the law.
- The VA should maintain a database / register of all Licensed importers of commodities. Registered importers can easily be informed of any changes being made to required sanitary measures.
- **Appropriate Regional (Trade) organisation could hold a database of licensed traders of commodities across the Eastern and Southern Africa region**

Application for **Import permit** must be made at least 3 months **BEFORE** import is due to take place in order to allow exporting country to meet all sanitary requirements defined by VA.



Sanitary Requirements must be defined in Regulations or Directives, where they can be amended readily, as and when necessary.

Application for Import / Transit permit is made using a Standard Application Form (defined by Regulations), which has Guidelines annexed to assist the applicant.

Rule 1 – Import / transit of commodities - No person may import or convey in transit an animal or “commodity” without obtaining an **Import / Transit Permit** from the Veterinary Authority.

What criteria may be included in Sanitary Measures to be defined on an Import / Transit permit ?

SPS measures are legally binding and can be enforced by the **Veterinary Authority** mainly through secondary legislation and include:

- product criteria – (e.g. tests to confirm freedom from disease or compliance with permitted levels of residues);
- quarantine & health sanitary measures – (disease control, vaccinations);
- production and processing requirements: Halal, HACCP/food safety/ critical storage requirements, traceability;
- certification and approval procedures – International Veterinary Certificate.

SPS Agreement – Article 4 – “Equivalence” of sanitary measures

What does Equivalence mean in practice ?

Sometimes an exporting country does not want to comply with a sanitary measure being imposed by an importing country because it adds cost to their export product, which then becomes less competitive on the global market.....



Equivalence Agreement

- An exporting country can negotiate with an importing country by proposing to apply alternative **sanitary measures** which differ from those insisted upon by an importing country (in its Import permit) - It must demonstrate that its proposed **sanitary measure(s)** would achieve the same level of protection as that achieved through the application of the Sanitary measures requested by the importing country. The result of an Equivalence negotiation is called “**An Equivalence Agreement**”

SPS Article 5 – Risk Analysis and Scientific Justification

Sanitary measures should be based on an assessment of the risks to human and animal health or life, taking into account risk analysis / assessment techniques of relevant international organisations (OIE and Codex Alimentarius)

Risk assessment should take into consideration some of the more important economic factors, including:

- The potential damage in terms of loss of production or sales in the event of entry, establishment or spread of a disease;
 - The costs of control or eradication in the territory of the importing country;
 - The relative cost-effectiveness of alternative approaches to limiting risks; and
- the available scientific evidence, including such factors as:
- Relevant processes and production methods;
 - Relevant inspection, sampling and testing methods;
 - Prevalence of specific (pests) diseases;
 - Existence of disease (pest) free areas;
 - Relevant ecological, and environmental conditions;
 - Quarantine or other treatment

SPS Article 6 - Regionalisation -

- Members shall base their **sanitary measures** on the sanitary characteristics of the “area” – whether all or part of a country, or all or part of several countries – from which an animal or product has originated and to which the animal or product is destined.
- In assessing the sanitary characteristics of a region or area, Members should take into consideration:
 - the level of prevalence of specific diseases or vectors of disease; and
 - the existence of eradication or control programmes; and
 - appropriate criteria which may be developed by the international standard setting bodies (OIE and Codex Alimentarius).

In recognition of disease free or low prevalence of disease in a region the following should be considered:

- Geographical boundaries; e.g. big rivers, lakes, fenced highways, mountain ranges;
- Ecosystems, - affects distribution of livestock populations and diseases (especially vector borne diseases);
- Epidemiological surveillance systems in place; and
- The effectiveness of any existing sanitary control measures in place;

Any claims of disease free or low prevalence disease status shall be based upon scientific evidence, demonstrating that existing disease status can be maintained.

An exporting country shall allow an importing country to conduct inspections and tests to confirm that claims are true.

SPS Article 7 - Transparency – changes in animal health status or changes in sanitary requirements

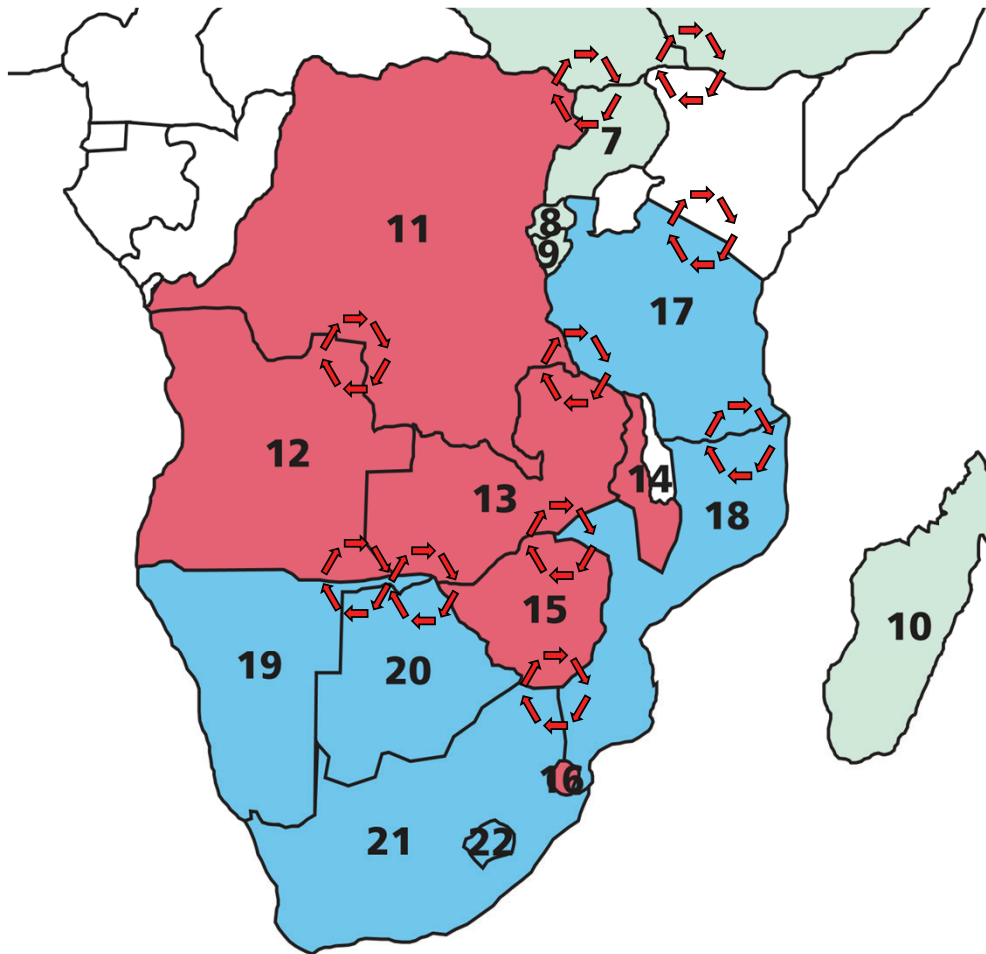
Members shall notify changes in their animal health status to OIE and all important trading partners, as well as new, or changes to existing, sanitary measures and shall provide other Members with any information that they require on their sanitary measures in accordance with Annex B of the SPS Agreement including:

- 1 All adopted sanitary requirements must be published promptly and in such a manner that Members shall be able to have access to them.
- 2 Members shall allow a reasonable time to elapse in order to adapt and introduce processes necessary for compliance with a particular sanitary measure – Usually not less than 6 months
- 3 An SPS National Enquiry point shall be established and this enquiry point shall respond to all questions by providing documentary evidence related to:-

Information / evidence may be required on:

- 1 All Sanitary measures adopted or proposed in a Member country's own territory;
- 2 Any control and inspection processes, production and quarantine treatment, veterinary drug or pesticide tolerance levels and food additive approval procedures which are operated in its territory;
- 3 Risk assessment procedures, factors considered to determine the appropriate level of sanitary protection;
- 4 The membership and participation of the Member or relevant bodies in its territory, in international / regional organisations;
- 5 Any bilateral or multilateral trade agreements or equivalence agreements in existence.

Unregulated Transboundary movement of animals across the region presents a risk of the spread of animal diseases



Members of COMESA & SADC

- 11: DRC
- 12: Angola
- 13: Zambia
- 14: Malawi
- 15: Zimbabwe
- 16: Swaziland

Members of SADC

- 17: Tanzania
- 18: Mozambique
- 19: Namibia
- 20: Botswana
- 21: South Africa
- 22: Lesotho

SPS Article 8 – Border inspection / control procedures

- **Single window Border Inspection Posts** could allow for use of shared infrastructures for control of cross border movement of commodities between neighbouring countries e.g. shared office, detention/quarantine facilities.
- Members shall observe the provisions of **Annex C** (SPS Agreement) in the operation of control, inspection and approval procedures, and otherwise ensure that their procedures are not inconsistent with the provisions of the SPS Agreement.
- **Annex C states:** - Inspection (etc.) procedures (including sampling & testing) are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products – and... the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request;

SPS Article 8 / Annex C – Border control / inspection procedures

- **No undue delays**
- **No less favourable treatment** for imports than domestic products of importing country:
 - Fees – **no discrimination**, only to cover costs
- **VA shall inform the applicant** (Importer / Agent) in a precise and complete manner of all deficiencies;
- **VA transmits as soon as possible the results of any procedure** in a precise and complete manner to the applicant so that corrective action may be taken if necessary;
- **Information requirements**: limited to what is necessary to verify compliance with required sanitary measures;
- **confidentiality of information** about imported products in connection with control, inspection and approval and in such a manner that legitimate commercial interests are protected;
- **Procedure to review complaints.**

Export Certification – Authorised Officer / Inspector

- **Certifying veterinarian - MUST** be authorised by the **Veterinary Authority**, e.g. “**authorised Veterinary Inspector (Import/Export)**”
- VA should maintain a database of all authorised Veterinary Inspectors + specimen signatures;
- Can only certify matters that are within their **OWN** knowledge at the time of signing the Certificate, or which have been attested by another competent person: e.g. “**Official analyst**” at National Reference Laboratory or and “approved / authorised (by VA)” Veterinary Laboratory.
- Only sign a certificate which is correctly completed giving **ACCURATE information** – If certification relies on supporting documents, Veterinarian must either have verified a document himself or have the document in his possession

Export certification - Ethical / legal considerations

- Certificate should **NOT** require an authorised Veterinary Inspector (Import/Export) to certify matters **OUTSIDE** his/her knowledge which he/she cannot verify.
- Certificates should be accompanied by Guidance notes, to explain extent of enquiries, tests or examinations to have been carried out prior to signing – Importing country requirements must be clearly understood.
- Certificates **CANNOT** be altered except by a STRIKEOUT countersigned by the authorised Veterinary Inspector (Import/Export)
- Signature and STAMP must be in a different colour from that of the print of the document –
- In the event that the circumstances have changed since the Original Certificate was prepared, a replacement certificate can be prepared – must refer to the number of the Original and must clearly state that it is a replacement.
- **ONLY ORIGINAL CERTIFICATE IS ACCEPTABLE**

Export Certification - International Veterinary Certificate

- **International Veterinary Certificate** – should be based upon template provided by the OIE in the TAHC. (Chapter 5.10) – **(Harmonisation)**
- Has a unique Identification number, each page numbered 1 of 2,(3) etc. to avoid fraud; and signed by the certifying officer.
- Must be written in a **language** understood by the importing country **and** the authorised Veterinary Inspector – **MUST read and write English, French or one of the other official languages of OIE / WHO etc.**
- Certificate must clearly identify the animals or commodity being exported, or have a certifiable Group / Batch identification number – Importing country may require individual identification of animals

Electronic exchange of certifying documents – Regional harmonisation possible

- Certifying documents can be exchanged between Veterinary Authority of importing and exporting country's, via internet;
- In such cases, the commercial producers have limited access to the web-based interface to provide information –
- The authorised Veterinary Inspector must have access to ALL information being provided – e.g. laboratory test results, animal identification records, etc.
- Certificates should be based on internationally standardised language, messaging structure & exchange protocols –
- Guidance available on [www \(W3C\)](http://www.w3.org) Extensible Markup Language (xml schemas) provided by UN Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

Security of electronic International Health Certificates

- Electronic Certificates can take a different Form from Paper based documents BUT must provide the same information; Standard template – **(Regional harmonisation possible)**
- The Veterinary Authority must have a **secure system** to protect the system against access by unauthorised persons or organisations – Complex system of passwords and authorised access required;
- The certifying veterinarian should be officially responsible for the secure use of his / her electronic signature.

Opportunities for Regional harmonisation Eastern & Southern Africa

- **Use of OIE definitions** – makes us all speak the same language ! Helps with clarity and helps to avoid misinterpretation of terms used in legislation from one country to another.
- Standard curriculum for training of Authorised Veterinary Inspectors (Import/Export)
- **Certification - Identity Card & Certificate of Authority - could be harmonised;**
- **Regional database** of “Official / Authorised – Veterinarians / Inspectors” and specimen signatures ?
- **Regional organisation could hold a database of licensed traders of commodities**
- **Single window Border Inspection Posts** could allow for use of shared infrastructure for control of cross border movement of commodities between neighbouring countries.
- **Regionalisation** – harmonisation of sanitary measures required for prevention and control of TADs – considerations include:
 - the level of prevalence of specific diseases or vectors of disease; and
 - the existence of (regional) eradication or control programmes;
- **International Veterinary Certificate** – should be based upon template provided by the OIE in the TAHC. (Chapter 5.10) **web-based system for regional trade of commodities could be placed under umbrella of an appropriate Regional organisation**
- **SECURITY system** – to protect Electronic exchange of certifying documents – **Regional harmonisation possible.**

Food for Thought - Which Regional Organisation to be considered as the umbrella for “Regional” harmonisation of veterinary legislation ? COMESA or SADC or ANOTHER ?

- May be more realistic to consider **SADC** as the starting point for harmonisation of legislation at the regional level of Eastern and Southern Africa – considering.....
- Similarities in terms of geographical relationships; common disease problems; frequency of transboundary movements of humans, animals and animal products; regional trade volume; common issues relating to global trade and gaining access to international markets for animal products.
- Interestingly, Wikipedia cites as a “Challenge” facing SADC member countries:

“Cattle diseases and organised-crime gangs know no boundaries”

THANK YOU
ANY QUESTIONS ?