



United States Department of Agriculture

Innovations in Risk Management

The SPS Agreement is all about Risk Management



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The SPS Agreement



20 YEARS!

The SPS Agreement



- Entered into force in 1995
- 20 years of experience implementing
 - Agreed standards
 - Dispute rulings
- How far have we come in 20 years?

What does the SPS Agreement tell us about Risk Management?

FUN FACT:

“Risk Management” is mentioned how many times in the SPS Agreement?



Is Risk Management *implied*?

- “Risk assessment”: science based
- “Risk management”: other factors (political, social, etc.)
- Debate whether RM is implied during EC vs US/Can dispute over beef hormones
 - “risk management” is NOT scientific

However...

Article 2:

Members have the right to take sanitary and phytosanitary measures necessary for the **protection** of human, animal or plant life or health



Protect and prevent...

Annex A: An SPS Measure is any measure applied:

- ...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

and

- to **prevent or limit other damage** within the territory of the Member from the **entry, establishment or spread of pests.**

How does the SPS Agreement inform Risk Management?



- Provisions, rights and obligations
- Standards
- Disputes and rulings

What are the options in SPS for managing risk?

1. Harmonize (Article 3)
2. Equivalence (Art. 4)
3. Risk Assessment (Art. 5)
4. Provisional Measures (Art.5)



But we should keep in mind...



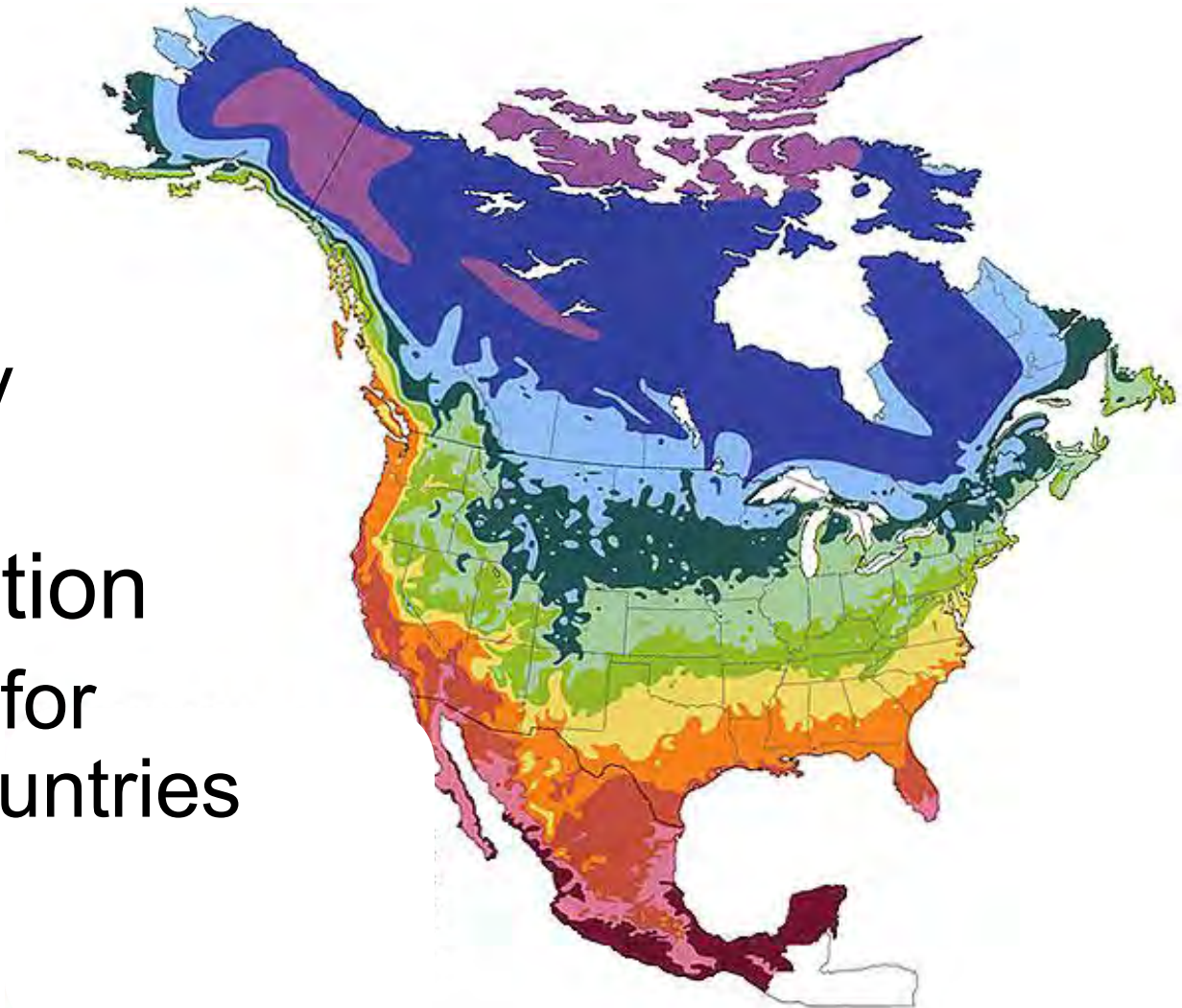
- “Appropriate level of protection” (Art. 5)
- Least trade restrictive (Art. 2)
- Sovereignty (the whole agreement)

Harmonization / Equivalence / Risk Assessment

Country A Country... Country Z	Based on Standard I	<u>Burden of proof</u> Standard setting body (and members)	<u>Applies to</u> Members
Country A	Bases requirements on Standard I; Country B, C, D know requirements	Burden of proof established	Members
Country A	Accepts Country B, C, D, etc products since they conform to Standard I	Burden of proof established	Members
Country A	Recognizes Measure II from Country Z (which is different from Standard I and different from Country A's requirements)	Exporting country Z (in cooperation with importing country A)	One*
Country A	PRAs for pests, commodities, countries or policies	Country A	Variable

Other RM concepts in the SPS

- Provisional measures
 - Emergency measures
- Regionalization
 - Significant for NAPPO countries



What about SPS disputes?



- Beef hormones (**US/Can** vs. EU)
- Fruit varieties (**US** vs. Japan)
- Salmon (**Canada** vs. Australia)
- Apples / fire blight (**US** vs. Japan)
- GMOs (**US** vs. EU)
- Apples / fire blight (**NZ** vs. Australia)

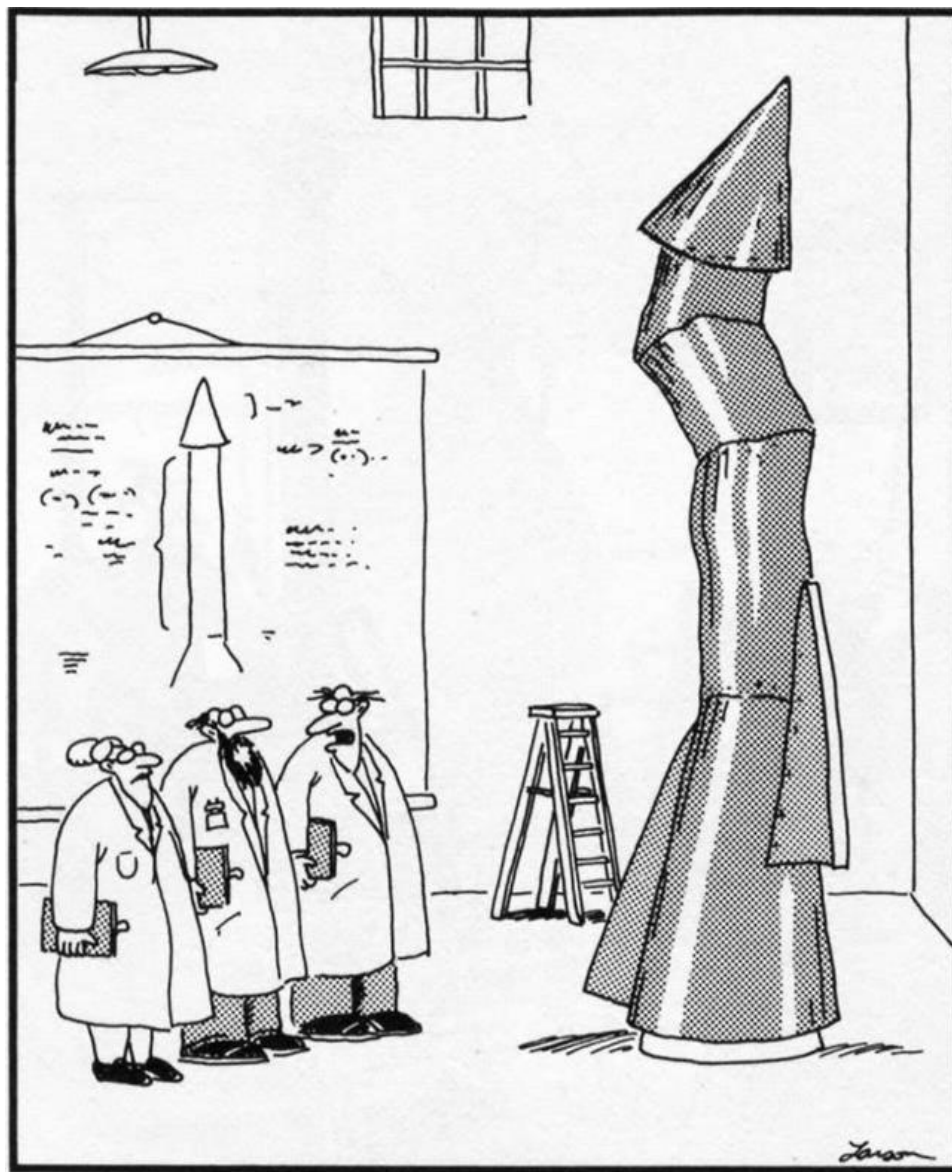
Lessons learned:

- Rational relationship of measures to risk
- Appropriate level of protection
- Consistency of measures
- Least trade restrictive
- Incorporate available evidence
- Harmonized, transparent, and based on risk



**Risk
Management
is not rocket
science but...**

**Can we move
towards
*innovation?***



"It's time we face reality, my friend. ... We're not exactly rocket scientists."

Opportunities for innovation



- Standards that support alternative measures
- Partnerships
 - Regional organizations
 - Industry
- Using and accepting alternative approaches

Addressing Uncertainty

- Not addressed explicitly

But....

- Provisional measures
- “Scientific and other evidence”
- Decisions on disputes
- Opportunities!



dank u
 Tack ju faleminderit
 Asante 谢谢 Tak mulțumesc
 kiitos **Salamat!** Gracias
 Merci Terima kasih Aliquam
 ありがとう Dankie Obrigado
 köszönöm grazie
 Aliquam Go raibh maith agat
 děkuji Thank you