

General Articles

NECESSARY MEASURE UNDER THE SPS AGREEMENT

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ABSTRACT

One the one hand, the Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter “SPS Agreement”) provides the right to take measures necessary for the protection of human, animal or plant life or health. On the other hand, it is also aimed at reducing trade barriers. Necessity is a tool to balance these two competing objectives. However, necessity under the SPS Agreement has not been elaborated deeply. The first question concerning necessity is whether the SPS Agreement requires the necessity of measure. This article identifies the provision containing such requirement. In addition, it tries to propose the meaning of necessary measure under the SPS Agreement. In particular, it shows some differences between the necessity under the SPS Agreement and that under GATT 1994/GATS.

KEYWORDS: *necessity, SPS Agreement, right to protect health and life, appropriate level of protection*

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