
World Trade Organization

Economic Research and Statistics Division

**THE WTO'S TPR COVERAGE OF SPS SYSTEMS
IN SUB-SAHARAN AFRICA***

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* The paper was prepared in connection with the celebration in 2019 of 30 years of the TPRM.

[◇] The author is grateful to Arne Klau, Karsten Steinfatt, Christiane Wolff, and Hanna Vitikkala for their valuable remarks. Many thanks to Olga Kusanova for her assistance in gathering the information needed for putting this work together.

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ABSTRACT

- **Agriculture** is highly important to the sustainable performance of economies in **Sub-Saharan Africa** (SSA), and a sound sanitary and phytosanitary (SPS) system plays a key role in this respect. SPS measures are one of the many trade topics covered by TPR reports on WTO Members. Therefore, we found it interesting to explore the extent to which the **WTO Trade Policy Review Mechanism (TPRM)** has contributed to providing a comprehensive picture of SPS systems in SSA countries, and venues for a more in-depth analytical framework.
- The main purpose of the paper is to present the **coverage of SPS systems** in SSA countries by TPR reports, and their main findings. It also opens the discussion as to whether the **SPS analytical framework** in TPR reports has been sufficiently comprehensive and beneficial in guiding technical assistance (TPR follow-up) activities in SSA. At the outset, we briefly present the strategic importance of agriculture in SSA countries, with a description of the link between an **effective SPS regulatory** system and the performance of agriculture.
- This **paper is** neither a comparative study on the work done by the WTO Secretariat and other organisations whose mandate is exclusively SPS related, **nor a research paper to analyse SPS issues** in SSA.
- For this work, the main source of our information consists of the series of TPR reports on SSA countries, particularly sections on SPS; standards, including inspections and conformity assessment; customs procedures; and agriculture policies.

END OF ABSTRACT

BACKGROUND

1. The agriculture sector is of paramount importance to SSA countries and their socio-economic performance. Thus, it has become a central issue in strategic plans for poverty alleviation, as well as the achievement of key sustainable development goals such as ending hunger. The World Bank figures suggest that on average, agriculture, including livestock, forestry, and fishing, accounts for around 15% of GDP (over 30%, excluding non-LDCs and mineral-rich countries). Furthermore, its contribution to export income reaches 50% of the total of merchandise trade for certain countries. The importance of agriculture is further magnified when assessed in terms of its contribution to livelihoods (employment and on-farm consumption), as over 70% of the population, mainly in rural areas, are dependent on the sector.
2. Agricultural performance remains characterized by low productivity, despite the consensus on its strategic importance for the majority of SSA countries. As a consequence, it has failed to provide safe and sufficient food on a regular basis to the local populations. In addition, it has failed to conquer significant market shares to provide decent amounts of foreign earnings to local economies.
3. A coherent regulatory and operational system for plant and animal health, and for the safety of foodstuffs is critically important to the performance of agriculture. It allows for better harvests, through healthy plants and animals; and it represents safety assurance for consumers, thus creating additional consumer groups, including overseas. Other performance factors, not addressed in this paper but no less important, include mechanization, irrigation systems, and market information systems. A great number of policy and research papers based on field experience, as well as empirical assessments, have demonstrated the complexity of what constitutes a national SPS system.
4. Assessing the soundness of SPS systems generally entails the review of relevant legislative and institutional frameworks, including the adoption, implementation and revocation of SPS measures; inspection systems; pest surveillance; participation in international frameworks, including timely notifications; and participation in Codex Alimentarius, the World Organisation for Animal Health (OIE), and the International Plant Protection Convention (IPPC).
5. The TPRM is a forum that allows WTO Members to better understand each Members' policies and their adherence to the WTO disciplines. It is in charge of scrutinizing the economic rationale behind Members' trade and trade-related policies, and their systemic impact (domestically and globally). As such, it plays an important role in, *inter alia*, identifying inefficiencies in domestic policy measures and their sectoral implications. The Mechanism is important to developing countries, in particular LDCs with too little resources to undertake a thorough review of their regulatory frameworks.
6. Three decades of TPRs of SSA countries have been beneficial in terms of drawing attention to some of persistent regulatory weaknesses. The reviews have specifically emphasized the agriculture sector and scrutinized a wide range of aspects of plant and animal health, and food safety, particularly with regards to SPS institutional and legislative organization.
7. The main finding is that SPS regulatory frameworks are relatively weak in SSA countries. Consequently, they curb the building of a strategic agriculture sector. However, questions remained on whether the review undertaken through the TPRM has proved to be sufficiently comprehensive to allow SSA Member countries to have a relatively good inventory of their SPS framework. By covering the substantial aspects of SPS issues, TPRs can become an effective technical assistance need assessment tool.

8. In 2002, the TPR Division started organizing activities to follow up on the main results of the TPRs of certain developing countries, mostly LDCs. The activities are an opportunity for the TPR Division and the authorities of the reviewed country to raise awareness of the main economic and trade issues identified during the Review. The weakness of SPS regulatory frameworks has constantly been raised as an issue of significant importance to the economic and trade performance in SSA countries.

1 AGRICULTURE IN SUB-SAHARAN AFRICA[‡]

9. Agriculture, including crop farming, horticulture, livestock, and fisheries is the backbone of national economies in sub-Saharan Africa (SSA) and the main source of inclusive economic growth. On average, it accounts for over 50% of total employment (two thirds for many LDCs), over half of exports of goods and some one third of GDP. While 70% of Africans[§], with a majority of women, depend on the sector for a living, growth in agriculture benefits the poor most. The sector is also a central element of fighting food and nutrition insecurity. In addition to this direct contribution, the forward and backward linkages with the rural economy and other sectors strengthen the importance of agriculture for overall growth and development in SSA.

10. The sector remains dominated by small-scale farmers, operating on about 2 hectares of land on average and producing 80% of food products.** Large-scale farmers (with farm sizes of 20 hectares or more) account for around one-quarter of the cultivated area. Agricultural productivity remains constrained by many factors, including low-level technology, insufficient investment, and changing weather patterns. A significant portion of the production is wasted due to pests, animal disease, poor storage, transportation and market infrastructure.

11. A sound Sanitary and Phytosanitary (SPS) framework can help SSA countries to better cope with climate change challenges^{††}, and to tap the large opportunities available in their agricultural sector. As such, it can play a role in fighting poverty and hunger, through improved rural livelihoods and access to nutrition. Furthermore, a well-functioning SPS system contributes to the improvement of health by addressing 'risk at source' for emerging food-borne pathogens and other threats. For these reasons, supporting the agriculture sector in SSA through, investments in national SPS systems promotes agricultural production and protects consumers.^{‡‡}

12. Although tariff barriers in goods, have been lowered or eliminated due to the multiplicity of preferential trade agreements, there has been growing recognition that stringent SPS measures can constrain trade in agricultural and food products. SSA countries experience difficulties in meeting the SPS requirements of developed countries and, it is claimed, this can seriously impede their ability to export agricultural and food products and upgrade their participation in global value chains.

13. Improving market access in sectors of exports interest for developing countries in SSA is fundamental for economic growth and diversification, through their insertion in global value chains. Strategic investments to upgrade SPS systems, including infrastructure and human capital is seen as a way to unlock the potential.

[‡] According to the United Nations, Sub-Saharan Africa consists of all African countries that are fully or partially located south of the Sahara.

[§] World Economic Forum, World economic forum on Africa, viewed at: <https://www.weforum.org/agenda/2016/05/70-of-africans-make-a-living-through-agriculture-and-technology-could-transform-their-world/>.

^{**} FAO, supporting smallholder farmers in Africa, viewed at <http://www.fao.org/family-farming/detail/en/c/1109849/>.

^{††} Standard and Trade Development Facility (STDF)2009, Implications of Climate Change on Sanitary and Phytosanitary (SPS) Issues and Development Objectives.

^{‡‡} Committee on Sanitary and Phytosanitary Measures of the WTO, information on SPS activities of the African Union Commission, 13 March 2019.

2 TPR REPORTS COVERAGE OF SPS ISSUES

14. TPR reports have an extensive coverage of SPS legal and institutional framework. Substantial descriptions are given on the prevailing legislations and the agencies involved in their implementation, the recently adopted SPS measures, and their notification status to the WTO.

15. In that context, discussions with national authorities cover, *inter alia*, the network of laboratories and their actual ability to implement a range of relevant tests and perform surveillance duties as regard potential epidemics. It is also of the interest of the TPR team to get a grasp of the operating standard of the whole machinery. Specifically, for the sake of exhaustivity, the legal and institutional framework is extensively discussed. Issues raised usually include: areas covered by every SPS legislation, amendments made over the review period, and the main rationale underlying the amendments.

16. Discussions in the context of the review also cover the work of agencies in charge of implementing SPS regulations. Among specific areas looked into by the TPRs, a focus is made on the number of agencies operating in the system and their clear responsibilities. Attention is paid to possible fees collected by the agencies, to look whether their actions may trigger unnecessary costs for the business community. In fact, although in general TPR consultations don't specifically involve stakeholder affected by SPS measures, it has been noted that there's usually no formal consultation framework between public and private sectors in SSA countries.

17. As we scrutinize SPS issues in TPR reports on SSA countries, it appears in the case of many countries that the legal and institutional framework, as well as human capital and the private sector participation remain an important challenge.^{§§}

18. Number of case studies and desktop research papers have come up with the same findings on the weakness that characterizes SPS systems in SSA. Babatunde, M.A (2018), for example, points out a number of low performing aspects in SPS systems of Gambia, Kenya, Morocco, Mozambique, Tanzania, Uganda, and Zambia. Mostly in SSA countries, these include a low level of technical education of the staff involved as well as the technology used for inspection processes; lack of SPS-related information exchange with importers and exporters; the poor flow of relevant information among, which constrain national efforts to contain plant and animal diseases; lack of adequate conformity infrastructure (insufficient laboratory facilities).

19. Henson and Loader (2001) and Shafaeddin (2007) also highlight the extent to which developing countries face difficulties in complying with EU requirements in the domain of SPS.

2.1 SPS regulations: recent trend of modernization

20. Three decades of review of SPS issues have shown that, in almost all countries, there exist legislative texts for food safety, animal health, and plant protection. Though laws and regulations are not regularly updated, as most of SSA countries don't have a systematic mechanism for a regular review. This indicates inefficient administrative procedures, and a weakness in the consultative framework between the public sector and the business community (see 2.4). In principle, such frameworks, if they function correctly,

^{§§} See for example TPR reports on: Benin (2010); Côte d'Ivoire (2012); Tanzania (2013); Cameroon (2013); Central African Republic (2013); and Malawi (2016).

provide an opportunity to the main private stakeholders to enlighten SPS regulatory bodies on measures to be taken in order to upgrade the SPS framework.

21. In recent years, due to increased collaboration between several SSA countries and the main international SPS-related frameworks, i.e. the Codex Alimentarius, the IPPC, the OIE, steps have been taken to further bring national SPS legislation in compliance with existing international guidelines. For example, national Codex committees have helped countries to, *inter alia*, discuss issues of national importance pertaining to food safety, participate in Codex Working Groups, and have access to Codex documentation.

22. The increased collaboration between SSA countries and the three standard-setting institutions has helped raise awareness on food safety issues and trigger legislative modernization in certain countries. Djibouti, for example, established a National Codex Alimentarius Committee in 2011, whose responsibility includes aligning the country's SPS measures with international standards. The Committee is in charge of looking into matters relating to Codex Alimentarius standards, mostly by giving its opinion on the possibilities for their adoption as Djiboutian standards, and of promoting Djibouti's participation in the Codex's bodies.

23. Codex Committees have also proven important to SSA SPS regulations in other aspects. In national standard-setting procedures, draft standards pertaining to food safety are submitted to the National Codex Alimentarius Committee (serving as a technical committee), before their adoption.

24. In Angola, in 2006, the Codex Alimentarius assisted the national agencies in elaborating and strengthening food quality controls and reform of national regulations on foodstuffs and consumer products to bring them in line with the FAO Codex Alimentarius.

25. Regarding plant protection, the role of IPPC contact points has been crucial for information exchange (mostly on pests) between countries that are contracting parties to the Convention. They are responsible for, *inter alia*, redirecting phytosanitary information received from other countries and from the IPPC Secretariat to appropriate national officials, and redirecting requests for phytosanitary information from other countries to the appropriate national officials. In addition, as pest risk analysis can sometimes be a complex process that requires many kinds of information from many sources, IPPC contact points establish dialogue among all stakeholders about plant health issues. This has helped some SSA countries to update their list of regulated pests, when appropriate. In Zambia for example Phytosanitary requirements for imports were aligned with IPPC recommendations. In 2014, Mauritius National Plant Protection Office was in the process of removing import permit requirements for low-risk products, in line with IPPC standards.

26. An interesting lesson that has emerged from TPRs over the last three decades is that unlike certain topics, such as competition policies, for which some SSA countries had, until recently, no dedicated legislation, SPS issues have been given somewhat a noticeable attention. Though, in a significant number of countries, the legal framework is characterized by outdated legislations. In fact, most of laws and other regulations were first enforced a number of decades ago (in some cases, dating back to the 60s).

27. While the "oldness" of a regulation is not an issue *per se*, the lack of regular assessment to determine the relevance of their main provisions is a serious weakness of SPS regulatory systems. A country with old regulations may still have a sound regulatory system if it regularly amends relevant provisions of the regulations. As an example, even though the pesticide regulation in Burundi is relatively

old, the authorities regularly update the regulations. Ordinances No. 710/837 and No. 710/838 of 29 October 2001 set the status, respectively, of pesticides approved for agricultural use and pesticides prohibited for agricultural use in Burundi. Ordinance No. 770/406 of 24 March 2003 establishes a National Code of Conduct for Pesticide Management; and several ordinances authorize or prohibit the use of specific pesticides. The National Committee responsible for the approval and control of pesticides undertakes a regular assessment to determine the list of allowed and prohibited pesticides in Burundi.

28. During the 2006 review of Uganda, the authorities acknowledged several weaknesses in the country's SPS framework, including outdated legislations and cumbersome procedures. It was noted that a draft food safety bill was under consideration since 2001. However, as a transversal issue, slow administrative procedures, continued to delay the full adoption of the new legislation.

29. Over the last decade, as the Ugandan authorities became even more aware of the importance of sound SPS legislation, an extensive step was undertaken to revise an increased number of regulations in the SPS area.^{***} However, the most recent review in 2019 noted that no new legislation had been adopted yet. The same scenario was also going on in Zambia, where a Plant Protection Bill had been under preparation for more than a decade.

30. In Ghana, until 2010, the main SPS legislation, the Prevention and Control of Pests and Diseases of Plants Act, 1965 (Act 307), was deemed archaic and largely inapplicable by the authorities. In practice the Codex Alimentarius and OIE regulations were used as regulatory guidelines. In 2010, the Plant and Fertilizer Act, 2010 (Act 803) replaced the repealed Prevention and Control of Pests and Diseases of Plants Act, 1965 (Act 307).

31. In Kenya, although SPS legislations were implemented a long time ago, they are frequently reviewed. technical regulations and SPS measures are reviewed after three years for the first time, and every five years thereafter.

2.2 Weak infrastructure, and unclear institutional arrangements

32. The TPR exercise has regularly provided a picture of the state of SPS infrastructure available in a country under review. Authorities from most SSA countries have most of the time indicated that laboratories and other scientific bodies in the SPS are generally scarce and underequipped.

33. While domestic value chains in various commodities require good standards in terms of capacity and coordination among enforcement agencies to provide safer and nutritious domestic food supply, implementing agencies are generally struggling with lack of well-trained staffs. SPS agencies also tend to have redundant roles and overlapping responsibilities.

34. Product inspections and disease surveillance agencies tend to focus their activities on the international trade aspect. In fact, imported and exported food, crops, plants, animals, and animal products, attract all efforts in terms of enforcement and physical infrastructure. As a consequence, domestic food supply, the quality and safety of animal and plant production for domestic consumption is

^{***} , This includes, regulations for the Agricultural Chemicals (Control) Act, the draft Biosafety Act and Regulations, the Plant Protection and Health Act, and the Food and Nutrition Bill to replace a series of old SPS-related legislation, including the Food and Drugs Act, 1964, the Public Health Act, 1964, the Plant Protection Act, 1964, the Drugs Act, 1993, the Seeds and Plant Act No. 3, 2007, and the Agricultural Chemicals (Control) Act No. 1, 2007.

left out. In rare cases when domestic inspections take place, they remain minimalistic, as there is little to no actual domestic demand for safe and quality products.

35. In the specific case of surveillance systems, effective risk management systems are lacking at some national and regional levels in SSA. Beyond the fact that risk determining chain is weak within SSA countries, national quarantine services, plant protection and food safety offices maintain little to no coordination, leaving the whole region at risk. In fact, for example, even if one country is able to identify and manage the risk, if bordering countries do not have effective response protocols the whole region remains at risk, in a context of inadequate availability of early warning systems and increased mobility of products and people.

36. In recent years, despite a general picture of weak institutional settings in SSA, the TPR process has noted that some countries stand out relatively well. This may be explained either by increased donor's assistance or an active national strategy.

37. For example, Rwanda has embarked on a noticeable institutional harmonization. Since 2010, responsibility for the protection of plants and certain aspects of animal health has been consolidated at Rwanda Agriculture and Livestock Inspection and Certification Services (RALIS). RALIS carries out: plant pest surveillance; inspection and certification of plants, plant products and animal products; plant quarantine activities; and the control of agrochemicals and related equipment. Animal disease surveillance and control are the responsibility of the Rwanda Agriculture and Animal Resources Development Board (RAB). The Ministry of Health is responsible for food safety, except food safety issues related to unprocessed products, which are within the remit of RALIS.

38. In Kenya, the 2019 TPR showed that export and import control activities are supported by a relatively well-equipped laboratory facility in Nairobi. It also has a growing number of staffs, including some 100 scientists, 100 technical officers, and 150 support staff. In the past, the EU granted resources to Kenya, for capacity building in the areas of analytical services for contaminants in food and feed, plant health diagnostics, and expansion of laboratories. The project has helped in the expansion of the scope of laboratory accreditation and the introduction of new analytical work in mycotoxin analysis; the setting up of systems for reporting pest outbreaks, improved risk assessment; and pest surveillance.

39. In addition, with support from the Government of the Netherlands, Kenya has established an early warning system for detection of pests. Under the system, electronic pest (e-pest) surveillance software has been installed, and e-pest surveillance hand-held devices issued to horticultural growers to collect pest data. The objectives of the system are to monitor pest outbreaks and dynamics for the purpose of developing pest management systems. In addition, the country put in place a system of e-certification of horticultural products.^{†††}

40. South Africa implements monitoring and surveillance activities. The country has put in place specific programmes for fruit fly to ensure early detection of the pest at the border and in fruit producing areas. Similar programmes are also in place to counter foot-and-mouth disease (FMD).

41. For an adequate inspection of agriculture and food products, South Africa runs an extensive network of laboratory services, which need to be licensed by departments in charge of agriculture and

^{†††} TPR report on EAC countries, annex on Kenya (2010).

health. Their domains of responsibility cover detection of diseases and pests, chemical residues, additives and microbiological contaminants.

42. In recent years, South Africa has undertaken additional efforts in order to provide coordinated border inspection. It established the Border Control Operational Coordinating Committee (BCOCC), a coordination platform which includes South Africa Police Services (SAPS) and South Africa Revenue Services (SARS), in addition to various departments of agriculture and health.

2.3 Scientific Capacity

43. Within SSA countries, scientific capacity to set and enforce SPS measures and to analyse risk continues to pose serious challenges. Scientific capacity includes both individual knowhow as well as appropriate scientific infrastructure for SPS activities.

44. Most of laboratories involved in SPS regulatory system are usually underequipped and the implementation of regular training on more prevalent topics remain an issue. In general, there is no regular training programme for Laboratory/field technicians in updated analytical methods and techniques to ensure they maintain relevant skills going forward. In certain cases., there may be laboratories with the ability to undertake microbiological and/or chemical analyses. However, they generally lack up-to-date technologies to perform the tests required for compliance with export market standards. Furthermore, those laboratories are not internationally accredited. As a consequence, there are obstacles in performing necessary duties effectively.

45. SSA countries are in a pressing need to develop well-equipped SPS laboratories run by trained and skilled staff if they are to ensure consumers' access to safe and food, prevent the introduction of pests/diseases, and be able to certify the safety of exported products.

46. Some countries with relatively good laboratory systems (Nigeria, Kenya, Senegal, Cote d'Ivoire, Uganda...) have a network of laboratories that are able to perform tests and validate the safety of food from production through harvest and processing. As a consequence, they have provided supports for better export performance into European and the US markets for some agriculture and agro-food products. Such a network characterizes risk and protects domestic crops from foreign pest and disease, helps monitor for and keep microbiological and chemical contaminants and residues out of food.

47. In Senegal, the National Laboratory (LANAC) at the Department of Commerce performs routine testing for microbiological and chemical residues on food; the Direction de la protection des végétaux (DPV) lab identifies pest threats; the National Animal Husbandry & Veterinary Research Lab (LNERV) performs disease diagnosis; however quality assurance of agricultural inputs is not regularly performed by any of these laboratories.

48. Weak coordination and scientific capacity has also undermined traceability requirements, compliance with pesticide use in the country of destination and pesticide registration were some of the constraints faced by smallholder farmers' in accessing external markets.

49. In the case of Tanzania, for example, the lack of established reporting procedures and poor communication with producers and exporters has hindered the establishment of a pest surveillance system. In fact, there is no central repository for documents and data management of pest records or surveillance data. While phytosanitary certificates are issued for exports, there is no computerised system

to retrieve the attendant documentation or trace consignments, nor a formal system for investigating cases of non-conformity in consignments.

50. As a result of these weaknesses, Tanzania has been prone to outbreaks of plant pests and diseases, some of which have affected the country's trade performance. These have included Cassava Green Mite, Large Grain Borer (in maize), Woolly White Fly (in citrus fruits) and Banana Wilt Disease. Currently, a major concern is the infestation of citrus and mango-growing areas by an exotic variety of fruit fly that could threaten Tanzania's exports of oranges and mangoes, for example, to the Middle East.

2.4 Public-private dialogue on SPS issues

51. Private sector engagement in SPS processes is limited and it significantly hinders the implementation of regional and country-level SPS standards. A well-established public-private collaboration framework can contribute to building adequate SPS regulatory systems in SSA. However, the reality is that in several countries there are no clear mechanisms for feedback available to the private sector for contesting government claims or submitting formal opposition to government actions.

52. A transparent, participatory, partnership approach to SPS policy development that includes input from public and private entities at all levels of the value chain is fundamental for agriculture development in SSA. In support of transparency, some countries have indicated their need to explore possibilities of making it binding for the Government to consult with private sector on good regulatory practices.

53. Private-sector organizations are generally consulted, on an ad hoc basis, on trade policy formulation, implementation and follow-up. Chambers of Commerce and Industry, which represent private sector in most countries, are often given the possibility to propose to the Government any measure, including SPS-related, that are conducive to the development of commercial, or production activities and may express opinion on relevant issues.

54. With its well-established private sector, and a good network of a scientific community, Kenya has a strong potential to establish a vibrant SPS committee, with the participation of private stakeholders. Although the private sector's views are channelled to the SPS committee, but this is done on the ad hoc basis. This situation may lead to consequences such as the private sector being sometimes forced into a position of either responding to regulations it had no role in drafting or going it alone in matters where government regulation and guidance are lacking, rather than proactively collaborating with regulatory agencies to develop appropriate regulations that can be adhered to and efficiently enforced.

55. Some countries, such as Botswana, seem to have a much-advanced system of private sector involvement. Regarding broad trade policy formulation, the private sector in Botswana is represented by the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) and the Botswana Exporters and Manufacturing Association (BEMA). Furthermore, at the level of standards (SPS and TBT) formulation, the Ministry of Health (responsible for food safety) is advised by the National Food Control Board. The Board comprises government officials from a number of ministries, and the food industry and consumers representatives.

2.5 Harmonization efforts at regional level

56. In recent years, more group reviews have been conducted. It has been noted through those group reviews that WTO members in SSA are increasingly realizing the importance of a well-established regional SPS framework to the performance of agriculture.

2.5.1 West Africa

57. The regional SPS framework in the West African Economic and Monetary Union (WAEMU)^{***} is an ambitious initiative aimed to ensure: the development of legal and technical instruments to help their member states efficiently manage SPS issues; the harmonization of SPS measures within the Union, on the basis of mutual recognition; and the adequate use of existing international standards.^{§§§} However, in the context of 2017 group TPR on WAEMU countries, it was noted during the discussions between the WTO Secretariat and relevant authorities that the effective implementation is constrained due to weak capacities of national coordination bodies. They stressed the fact that assistance was needed in particular in setting up national SPS committees in countries where they do not yet exist, for example, Mali and Guinea-Bissau; and to improve their operation in member States where they already exist (for example, Senegal).

58. While the rules governing the approval, marketing and control of pesticides in WAEMU were harmonized in 2009; their transposition into domestic legislations is still under way. The Regulation establishes a harmonizing sub regional legal framework for the quality control, certification and marketing of plant seeds and seedlings in the Union's member States. Member States are required to implement the "principle of mutual recognition of certifications based on community technical regulations and standards on plant seeds and seedlings as well as the control and approval procedures in force in the Union".

59. In the context of the 2017 TPR of WAEMU countries, it was noted that progress on harmonization was still slow. While the veterinary regime for animal health had been partly harmonized, food safety and plant protection regulations were not yet harmonized within member States. The WAEMU Commission was in the process of establishing a regional committee for the sanitary safety of plants, animals and foodstuffs within WAEMU.

2.5.2 East Africa

60. The three successive reviews of East African Community (EAC)^{****} highlighted the fact that the development and implementation of standards and other technical requirements, including sanitary and phytosanitary (SPS) measures, were a key priority in the region.^{****}

61. Several EAC documents including the EAC Treaty; the EAC Development Strategy; the EAC Common Market Protocol, the EAC Customs Union Protocol, the EAC Food Security Action plan and other instruments provide for the member States to harmonize SPS measures in order to facilitate trade within the community and with other trading partners. Specifically, The EAC SPS Protocol was developed in line

^{***} Members of WAEMU are Benin, Burkina Faso, Côte D'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

^{§§§} Common TPR report on Benin, Burkina Faso and Mali (2010); and common TPR report on WAEMU countries (2017).

^{****} The EAC is composed of Burundi, Kenya, Rwanda, South Sudan, Tanzania, and Uganda.

^{****} Common TPR report on Kenya, Tanzania and Uganda (2006); Common TPR reports on Burundi, Kenya, Rwanda, Tanzania and Uganda (2012 and 2019), available at https://www.wto.org/english/tratop_e/tp_r_e/tp_rep_e.htm#chronologically.

with the EAC Treaty, which requires the member States to harmonize SPS measures for pest and disease control; co-operate in several areas including SPS measures in accordance with international best practice.

62. Pursuant to EAC SPS protocol, the EAC Secretariat in collaboration with donors, such as the USAID have undertaken efforts to ensure, among other priorities: Coordination of SPS measures in EAC member States including process of ratification of the EAC SPS Protocol; drafting of the EAC SPS Bills and Regulations; and review of the national SPS committees.^{****}

63. As of December 2017, harmonized measures and procedures had been developed for plants; mammals, birds and bees; fish and fishery products; and food safety.

64. To date, the SPS Protocol which aims to coordinate coordination of SPS measures and activities at national and regional levels, has been ratified by Rwanda, Burundi, Kenya and Uganda.

65. The Phytosanitary (Plant Health) Measures Act was adopted in 2016. It aims at minimizing phytosanitary risk and facilitating the implementation of common and harmonized procedures in the areas of inspection and certification, movements of plants and plant products, and import and export requirements. The related SPS Bill was adopted by the Sectoral Council on Agriculture and Food Security in June 2017. Approval of the Bill by the Council of Ministers and its enactment into law the regional Assembly are awaiting full ratification by all EAC member States.

66. A mutual recognition procedure for veterinary vaccines and pharmaceuticals was adopted in 2015, together with a harmonized registration system.

2.5.3 Southern Africa

67. The 2002 Southern African Customs Union (SACU) Agreement provides for harmonization of technical regulations and product standards, and sanitary and phytosanitary measures. Though, SACU countries have not yet established a regional framework on this matter.^{§§§§} The lack of progress in SACU-wise SPS harmonization may be the consequence of the fact that South Africa's SPS policy dominates the regional framework, given its market size and reputable technological advancement. In that context, other SACU members tend to align their national SPS measures with those of South Africa. Lesotho and Namibia, for example, use South African standards, while Botswana established its own Bureau of Standards in 1995, and Swaziland enacted its Standards and Quality Act in 2001.

68. The SACU Agreement aims, in particular, to ensure a harmonized application of SPS standards to provide for smooth trade of agriculture and food products within the region. It indicates that members reserve the right to apply SPS measures in accordance with their national SPS laws and international standards but should consult with each other to ensure the free flow of goods without endangering animal, and plant health.

^{****} The East Africa Trade and Investment Hub, *SPS Capacity Building Manuals for EAC Partner States*, viewed at https://www.eatradehub.org/sps_capacity_building_manuals_for_eac_partner_states.

^{§§§§} Common TPR reports on SACU countries (Botswana, Lesotho, Namibia, South Africa and Eswatini) (1998, 2003, 2009, and 2015), available at https://www.wto.org/english/tratop_e/tp_r_e/tp_rep_e.htm#chronologically.

69. A regional protocol was developed in 2008 by the Southern African Development Community (SADC), a regional bloc to which all SACU countries are signatories, and for which the TPR Division has never undertaken a group-review.^{*****}

2.5.4 Central Africa

70. Sanitary and phytosanitary regulations are not yet harmonized within the Central African Economic and Monetary Community (CEMAC)⁺⁺⁺⁺⁺, in line with the slow harmonization in all trade-related issues.^{*****}

71. Under the Economic Community of Central African States (ECCAS), a strategy on the implementation of the Food Security Regional Programme ("Programme régional de sécurité alimentaire" – PRSA) was developed in 2004. It includes the development of harmonized rules in the areas of food safety, animal and plant health.

72. Other regionally-guided initiatives include the common regulations on the registration of pesticides. They were validated by the Ministries of Agriculture in 2004. These regulations define the registration criteria and give the competent authorities of the member States discretion to control the importation, exportation, marketing, utilization and destruction of registered pesticides. A Pesticides Committee of Central Africa (CPAC) was set up in 2007 to ensure the implementation of the regulations.

^{*****} SADC consists of Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

⁺⁺⁺⁺⁺ The CEMAC consists of Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea, and Gabon

^{*****} TPR reports on Cameroon, Congo, Gabon, Central African Republic, and Chad (2013).

3 TPRS FOLLOW UP ACTIVITIES AND THE NEED TO HAVE A COMPREHENSIVE SPS COVERAGE

73. Under this section, we aim to have a look at the TPRM as an instrument for technical assistance, and we look at ways to learn from the work done by other organizations, in terms of reviewing national SPS frameworks. This may help us to explore possible avenues to improve the methodology used in TPR process.

74. In order to assess the performance of a country's SPS framework (relevant legislation, functioning of national agencies, quality of infrastructure...), comprehensive evaluation tools have been put in place by the three international organizations that are specialized in SPS issues:

- OIE's Performance of Veterinary Services (PVS) Pathway;
- IPPC's Phytosanitary Capacity Evaluation (PCE) Tool;
- FAO/WHO's National Food Control Systems Assessment Tool.

75. In general, the methodology implemented by the three standards-setting organizations analyses various aspects of a SPS system, through: technical, human, and financial capacity; institutional capacity; public-private dialogue; SPS regulations; transparency; and surveillance and monitoring capacity (see more details in annex below).

76. While the TPR process aims at promoting transparency by shedding light on WTO Members' trade policies, results from the assessment by the three international standards-setting organizations are meant to guide the development of well-defined priorities and roadmaps to better allocate investments in SPS systems.

77. However, since 2002, in an effort to better exploit the main results of a TPR, a follow-up system was established. Under the system, a developing country that has been recently reviewed, may request the TPR Division to organize a national workshop to follow-up on the main findings of the review.

78. The importance of the TPRM in technical assistance and capacity building was also reaffirmed in November 2019, at the celebration of the 30th anniversary of the mechanism. It was discussed by a number of high-ranking diplomats and experts with concrete knowledge of the mechanism. They recognised that the TPRM has gradually gained in importance as a tool for technical assistance, and that the TPR follow-up workshops needs to be supported and strengthened.

79. The workshops bring together local stakeholders and the development aid agencies to discuss the strength and weaknesses highlighted in the TPR report. It also looks for ways to concentrate efforts on trade policy aspects with the highest impact on economic growth and poverty alleviation.

80. In workshops organized for SSA countries, agriculture development is regularly in the centre of discussions, and the improvement of SPS framework is quoted as an important element for a strategic agricultural development in SSA. In that vein, a comprehensive review of SPS framework by TPR reports can effectively guide policy discussions during a TPR follow-up activity. It can also feed into WTO-related capacity building mechanisms, i.e. the Standards and Trade Development Facility (STDF), Aid-for-Trade and the Enhanced Integrated Framework (EIF).

4 CONCLUSION

81. Agriculture is a vital sector to national economies in SSA. Several factors determine the competitiveness of the sector. These include modern production technologies, quality of infrastructure,

availability of training programmes for farmers, and adequate inputs, production, storage and transportation standards.

82. Adequate standards on agricultural products, i.e. SPS measures, are important in achieving an optimal quantity of production, through better seeds selection, adequate pest surveillance, and efficient post-harvest treatment. Furthermore, the implementation of appropriate SPS measures is a way to produce high quality agriculture products, in terms of innocuity of food products, and healthy plants and animals. Such an achievement provides a better access to foreign markets and bolsters exports performance.

83. Setting-up a strategic SPS system can be a complex issue, and it requires a prior inventory of the whole system. In terms of human and financial resources required, this is even more challenging for the majority of SSA countries, of which most are classified as Least Developed Country (LDC).

84. In this paper, we have presented how the WTO TPR Mechanism, whose objective is to provide an appraisal of a country's trade policies and practices, have depicted SPS systems in SSA countries.

85. We also showed that the OIE, the IPPC, and the WHO/FAO run an appraisal exercise, specifically limited to the analysis of SPS infrastructures. Obviously, in contrary to the TPR Mechanism which covers the whole trade policy framework, they implement more in-depth analysis as they only focus on SPS issues. Furthermore, the evaluation reports by the OIE, the IPPC, and the WHO/FAO is expressly meant to guide strategic policy formulation to upgrade SPS architectures. While, the TPR Mechanism is a transparency exercise whose primary goal is to shed light on a Member's trade policy measures.

86. TPR coverage of SPS issues is important; and generally speaking, it addresses important aspects of SPS systems. Due to lack of time, given the extent of trade related topics to be covered by the reports, a deep analysis is not often provided. In certain cases, mostly in LDCs, difficulty to have access to relevant information can also constrain a comprehensive presentation of a country's framework.

87. Looking back to decades of TPRs of SSA countries, it appears that there's a growing awareness of the strategic importance of a sound SPS framework. As a consequence, several modernization steps have been taken in recent years to keep SPS regulations in compliance with well-known international practices. In addition, SSA countries are mutualizing efforts at regional level to harmonize SPS regulations, with a view to promote regional trade, through mutual recognition of national standards.

88. Despite those positive developments, several TPRs have highlighted the fact that important gaps remain in terms of human and physical resources. In fact, most of national SPS agencies are understaffed and lack modern equipment, and countries usually fail to ensure regular training on modern technologies. As a consequence, SPS structures in SSA tend to lack the appropriate scientific base to identify and manage risks facing agricultural products.

89. Private sector, mostly the main stakeholders in agriculture are not systematically associated to decision making. As a result, SPS measures and related administrative procedures tend to hamper the performance of agricultural production and trade.

90. The initiation, in 2002, of TPR follow-up activities is an interesting opportunity to better utilize the results of TPRs in building-up strategic SPS architectures in SSA. In fact, through these activities, national authorities and the funding partners can acquaint themselves with the weaknesses identified in the national regime. As such, the design of agriculture development strategies can effectively incorporate SPS upgrade among priority actions.

ANNEX

Summary of main SPS aspects assessed under the methodology implemented by the three standards-setting organizations.

1. Technical, human, and financial capacity. This includes:

- the access to a functional and well-maintained physical resource (buildings, transport, information technology, cold chain, laboratory equipment).
- the capacity of competent authorities to maintain, update and improve the knowledge, attitudes and skills of officials and laboratory/field technicians at all levels, through an ongoing staff training and development programme, assessed on a regular basis or relevance and targeted skills development.
- the capability to access extraordinary financial resources in order to respond to emergency situations or newly emerging issues.

2. Institutional capacity. This includes:

- the existence of relevant agencies (food, animal, plant), and a coordination framework to, *inter alia*, respond rapidly to a SPS emergency threat, to trace its history and location, and to control domestic movements for the purpose of disease control, food safety, trade or other legal requirements.

3. Interaction with Stakeholders. This includes:

- the capacity to keep non-government stakeholders (farmers, industry groups/associations, NGOs and the general public) aware and informed, in a transparent, effective and timely manner, of SPS activities and programmes.
- Mechanisms to consult effectively (seek views of consulted parties, for consideration) with non-government stakeholders on SPS policies and programmes, and on developments in animal and plant health, as well as food safety.
- regularly and actively participate, coordinate and provide follow-up on relevant meetings and activities of regional and international organisations including the OIE, Codex Alimentarius Commission, WTO SPS Committee, WHO, FAO and Regional Economic Communities.
- capacity of the public sector to accredit/authorise/delegate to private sector or NGO expertise, to carry out official tasks on their behalf, usually via a formal agreement (i.e. public-private partnership).

4. SPS regulations. This includes:

- the capacity to develop and update legislation in accordance with SPS Agreement, and in collaboration with expert legal drafters and lawyers, other relevant ministries and Competent Authorities, national agencies and decentralised institutions that share authority or have mutual interest in SPS.

5. Transparency of SPS requirements. This includes:

- the capacity to provide timely notifications to the WTO SPS committee.
- the capacity to make information on SPS requirements easily available to private traders and trading partners and respond to requests for information in a timely manner.

6. Surveillance and monitoring. This includes:

- the capacity to run food, animal and plant health surveillance systems.
 - Access to Markets.
 - the capacity to provide physical infrastructure at the borders, as well as inspectors with necessary skills, to adequately address SPS risks.
 - the capacity to reliably certify animals and animal products, and related services and processes under their mandate, for export, in accordance with national legislation, international standards and importing country requirements.
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