



Note

Agricultural products' exports: Sanitary & Phyto-sanitary barriers faced by exporters in EAC

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Summary

This brief note emphasizes on SPS committee's function and mandate then summarizes views from EAC stakeholders on challenges faced with regard to SPS measures.

Introduction

Since the Article 20 of the General Agreement on Tariffs and Trade (GATT) standards have been settled under the WTO on Sanitary and Phytosanitary requirements to protect human, animal and plant health. It offers WTO members rights to fix their requisites in regard to Public Health while ensuring that the implementation of SPS measures does not constitute disguised restrictive measures. Hence, SPS measures should be based on scientific evidence, and standards tabled by international organizations such as the World Organization on Animal Health, or Food and Agriculture Organization. However, it also considers a reasonable 'risk' assessment to the level of public health protection, implemented by WTO members to the extent of preserving human, animal and plant health. SPS measures are the main market access barrier of developing countries with EAC's exportations of agricultural products that have been hindered by new stringent requirements from trade-partner markets and the inability to fully benefit from the liberalization of tariffs and quotas. Countries that encounter challenges related to SPS measures have the possibility to address them to the SPS Committee. The latter has been created in the wake of the WTO-SPS Agreement to monitor its implementation and bring assistance to countries in need. Being in charge of regulating SPS measures implemented by WTO members, it also ensures that SPS requirements of one WTO member facilitate trade more than they promote protectionism.

The brief note emphasizes on SPS committee's function and mandate then summarizes views from EAC stakeholders on challenges faced with regard to SPS measures.

Implementation of the SPS Agreement within the WTO

Mandate of the SPS Committee

As any agreement tabled by the SPS Agreement, it is supervised by a committee. It gave birth to the creation of the SPS Committee. The latter is in charge of monitoring how WTO members are applying the SPS agreement which constitutes guidelines to preserve human, animal and plant health.

The SPS committee discusses on issues raised from the implementation of SPS measures and risk assessments which correspond to whether or not one country's SPS measures are committed to protecting Public Health or is affiliated to protectionism¹.

SPS Committee's organization is similar to a forum for consultation about food safety animal, and plant health measures, and technical assistance is providing for WTO members in implementing the SPS Agreement. It follows the same rules as other WTO committees; those are maintaining inclusive ties with all WTO members and invite representatives from other International Organizations to add their expertise into SPS discussions, especially on new standards that could be taken toward Public

¹ Understanding the WTO on SPS measures, retrieved from :
https://www.wto.org/english/tratop_e/sps_e/spsund_e.htm

Health².

The SPS Committee hold three regular meetings a year, but it can be extended if necessary.

WTO members can table challenges they are facing to apply the WTO SPS agreement or report trade restrictions linked to SPS requirements. Via notifications from WTO members, the SPS Committee is able to evaluate SPS measures applied by one WTO member and provide capacity building for developing countries with seminars and bilateral programmes with international organizations such as the Food and Agriculture Organization.³

Commitments of the EAC toward the implementation of SPS measures

The EAC has initiated the implementation of SPS agreement to access to preferential-trade partner markets. Indeed, (i) the EAC SPS protocol has been adopted in 2013 at the WTO to support SPS-related issues in the region. An EAC SPS Bill is underway. It tables a commitment to enhance quality production and food security and safety in the region⁴. Laws and protocols have been implemented in regard of the SPS Agreement⁵; (ii) government bodies have been committed to comply with SPS requirements and resolve SPS issues if necessary⁶; (iii) EAC stakeholders have attended to meetings and workshops to acquire knowledge and trainings on SPS-related matters⁷; (iv) certification Offices have been created to review compliance to SPS standards

of products bound to shipment.⁸ Yet it is not sufficient as the EAC is still facing export challenges.

Perspectives from the EAC

Despite initiatives taken toward the implementation of the WTO-SPS Agreement, EAC' shipments are still dampened when entering into stringent markets. To tackle the issue, EAC stakeholders have analysed challenges to be tackled and rendered outcome proposals.

Challenges faced by the EAC

It is to be noted that without proper expertise on SPS requirements and their implementation, the EAC has stated to be powerless in alleviating exportation. The EAC lacks experts on SPS related issues, WTO discussions and negotiations on this item⁹. The EAC cannot afford to train its experts in Geneva considering logistic expenses.¹⁰ Few experts on SPS measures cannot sensitize effectively their government to the importance of complying with SPS measures in order to enhance trade opportunities.¹¹ The EAC should revert from the non-prioritization of SPS requirements in EAC domestic market and the lack of attention from public health officials to protecting plant, animal and human health and implement effectively SPS

² *ibid*

³ *ibid*

⁴ Rwanda Country Update Note (CUN)

⁵ *ibid*

⁶ *ibid*

⁷ Burundi CUN

⁸ *ibid*

⁹ Rwanda CUN

¹⁰ *ibid*

¹¹ *ibid*

standards¹².

So as government bodies, public and private sectors should also be mindful of ongoing SPS-related discussions, as none could clearly express its view on the matter¹³.

Lack of training impacts the value chain all across the board. It extends to farmers and agro-processors that have few knowledges about existing laws and SPS measures.¹⁴ As a matter of fact, it entails lack of compliance from agro-producers to SPS requirements and with no government awareness, the EAC maintains poor infrastructure, with inadequate technologies and skills in processing and manufacturing goods.¹⁵ Indeed, to attune to new advancements based on scientific discovery and new information, it requires heavy subsidies that implies updating the infrastructure¹⁶.

Considering the regionalization of SPS, with a high level of SPS requirements, developing countries encounter challenges in exporting to regional markets. Intertwined challenges should be addressed consequently as not complying with SPS measures of one trade-partner market implies cutting short with exporting EAC products to profitable yet stringent markets and lose confidence of others. It should be noted that it underlines the absence of recognition of compliance certificate to SPS measures provided by EAC authorities or approved by sister organizations such as the World Organization for Animal Health¹⁷.

More than the lack of confidence from foreign markets regarding EAC products and the lack of credibility of their certificate,¹⁸ exporters suffer by not getting genuine inspection to technically accepted standards and norms. Producers believe their products were compliant to SPS standards but end up being rejected¹⁹. It creates a risk of losing trust of trade-partner's countries regarding SPS' controls monitored by the EAC²⁰. Furthermore, stringent requirements distress producers to comply with SPS measures. It is reinforced by weak management related to the lack of awareness of producers on SPS standards, that dampens their trade opportunities²¹.

EAC stakeholders' proposals to comply with SPS requirements

Following the challenges raised by EAC stakeholders, one cannot contradict the need for training and expertise of EAC stakeholders to WTO-SPS Agreement and WTO negotiations. The WTO should provide capacity building to stakeholders involved in the value chain from producers to government officials²².

It should be extended to broadcasting information on requirements between the WTO and developing countries on SPS measures and foster the harmonization of agricultural production techniques²³. Producers have to be kept abreast of every country' standards to not run into export restrictions²⁴. The WTO should also inform and train civil society organizations and provide capacity building as well as public

¹² Kenya CUN

¹³ *ibid*

¹⁴ Uganda CUN

¹⁵ *ibid*

¹⁶ Kenya CUN

¹⁷ *ibid*

¹⁸ Tanzania CUN

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid*

²² Kenya CUN

²³ Tanzania CUN

²⁴ Uganda CUN

awareness on SPS issues including scientific knowledge and understanding of SPS measures, inspection and certification, and finally pest risk analysis²⁵.

The EAC needs technical assistance to comply with SPS requirements and enhance its infrastructure for testing and inspecting agricultural products before shipping its products abroad²⁶. It entails the development of quarantine facilities at border posts to prevent diseases from spreading²⁷.

The WTO should promote transparencies and regular updates of regional markets to developing countries on new SPS measures implemented, to limit EAC' shipments restrictions²⁸. Finally, the SPS committee should also review the implementation of SPS measures of trade-partner countries to prevent any protectionist measure from existing²⁹.

At the regional level, the EAC should promote the harmonization of SPS regulation to encourage free-trade between EAC countries. It should also work in collaboration with other regional countries to enhance awareness and share information on SPS measures all across the board³⁰.

Food businesses should focus less on quality, safety control and traceability that are daunting for small exporters and put them in jeopardy of being wiped off the market, as they cannot compete with other countries³¹. Efforts should be concentrated in improving harvest conditions and citizens' health than complying

with export requirements³².

EAC countries should also implement self-imposed bans until SPS standards are respected in order to not lose confidence of markets, plus it increases loyalty and reliance from trade-partners' perspectives³³.

To conclude, EAC governments should invest more in SPS measures and gain access to new technologies and scientific methods to inspect and control the use of pesticides. The SPS Committee should stress its efforts on developing countries' compliance with SPS standards and should provide capacity building and technical assistance to all stakeholders involved in the value chain that includes local producers in accessing to technologic inputs³⁴.

Conclusion

SPS measures were supposed to hinder trade restrictions by harmonizing trade rules related to SPS. However, the EAC still faces export restrictions of its products and is not in capacity to halt issues following its poor infrastructure and lack of access to information. To better integrate the EAC into the Multilateral Trading System of the WTO, information and training are the key. Broadcast updates and information on new SPS measures being implemented, pursue training of EAC stakeholders on SPS requirements and obtain technical assistance are proposals of EAC stakeholders to tackle the issue. The SPS committee has a role to play in better integrating developing countries that

²⁵ Tanzania CUN

²⁶ *ibid*

²⁷ *ibid*

²⁸ Tanzania CUN

²⁹ *ibid*

³⁰ Rwanda CUN

³¹ Uganda CUN

³² Kenya CUN

³³ Uganda CUN

³⁴ Kenya CUN

includes the EAC into the WTO and provide the necessary tools to comply with SPS requirements.

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