



# Influencing Market Standards A Voice for Developing Countries

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Today's strict food and agricultural standards have been set largely by developed countries. While these standards are there to protect consumers, sometimes the bars are set so high that they become non-tariff barriers. To gain greater access to export markets, developing countries can influence international standards, and use the rules of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures to their advantage.

For countries whose exports consist mostly of agricultural and food products, sanitary and phytosanitary (SPS) regulations in foreign markets can form non-tariff barriers to market access — even when tariff barriers are reduced or eliminated. Despite the European Union's "Everything but Arms" market access initiative for least developed countries, for example, SPS-related barriers persist. These measures can significantly affect the bottom line of producers and exporters, and thus have considerable potential to disrupt trade. Yet, more non-tariff barriers to trade will emerge as consumers' concerns over food safety increase in all countries following breakdowns in food control.

## Protecting and improving health

The WTO Agreement allows countries to impose sanitary and phytosanitary measures to protect and improve human, animal and plant health. "Sanitary measures" cover regulations that lay down food safety specifications or specifications aimed at preventing food-borne pests or diseases from entering a country. Countries can apply "phytosanitary measures" to ensure that imported plant varieties do not spread plant-borne pests or diseases. Countries also lay down "control, inspection and approval procedures" to determine compliance of imports with their SPS measures.

## Rules on protecting health

Consequently, WTO members adopted the Agreement on the Application of Sanitary and Phytosanitary Measures following the Uruguay Round of negotiations, to provide a multilateral framework of rules to minimize unnecessary obstacles to trade. The agreement imposes several obligations on member governments, including transparency provisions.

Each member has to maintain an enquiry point to provide

information about SPS measures to other members. It also has to maintain a notification point to inform other members about SPS measures that are not based on international standards and that may have a significant effect on trade. These obligations impose a burden on cash-strapped and resource-short developing countries. However, this is only one side of the coin. Obligations for governments in export markets translate into rights for business in exporting countries. For example, businesses can now obtain information about SPS measures promptly and track changes in these measures to adapt their products to them.

### High costs of export bans

**CASE**—In 1997, the European Union (EU) imposed a ban on the import of shrimp from Bangladesh. This ban stemmed from an EU team's inspection of seafood processing plants, which raised questions concerning both the plants' compliance to Hazard Analysis Critical Control Point (HACCP) regulations, and the reliability and efficiency of the government inspectors. The ban cost Bangladesh about US\$ 15 million over a period of five months, despite the fact that some exporters succeeded in diverting part of the intended shipment to the United States and Japanese markets.

Source: Briefing Paper No. 7/2002 from CUTS Centre for International Trade, Economics and Environment.

### Track changes

The business sector can avoid surprises in export markets by keeping track of notifications on measures regarding their products. For food and agricultural products, notifications concerning health and safety fall under the SPS Agreement, although the Agreement on Technical

SPS measures have considerable potential to disrupt trade.

Barriers to Trade (TBT) also imposes some relevant notification requirements (such as for packaging). Making effective use of countries' obligation to notify requires strong collaboration between a country's national enquiry point and its business sector. This does not always exist. Many developing country exporters are unable to take advantage of their rights regarding notifications for two principal reasons:

- ▶ a steady increase in the number of notifications, as a result of greater focus on food safety; and
- ▶ resource constraints and lack of expertise on the part of enquiry points, that make it difficult for them to sort out notifications and channel them to interested parties.

The business sector in developing countries needs to persuade its governments to set up systems to monitor notifications

### The power of information

**CASE**—The Canadian enquiry point for SPS and TBT has developed a system which automatically enters notifications received from WTO into an online database, coded by subject areas, using the international classification of standards. Canadian companies interested in receiving notification information select their area of interest. This ensures that they receive only relevant notifications.

In Brazil, the enquiry point for TBT has developed a tool called "Alerta Exportador" which enables exporters to receive daily e-mail updates — without any associated cost — on new WTO notifications on technical regulations and conformity assessment procedures.

These systems enable enquiry points to cover all business sectors, without inundating firms with irrelevant information.

Source: ITC Export Quality Bulletin No. 72 on "Information Retrieval on Standards, Technical Regulations and Conformity Assessment Procedures" (December 2002).

relating to SPS and TBT measures. Brazil and Canada are examples of countries that have established mechanisms to alert business of changes that may affect them.

Business can track mandatory SPS measures in this way, but it is not enough in all cases. For example, exporters to major retail and wholesale chains such as Sainsbury's, a prominent food retailer in the United Kingdom, have to meet more in-depth specifications which reflect not only regulatory requirements but also the individual buyer's own quality and safety requirements.

### Public-private collaboration

As well as tracking SPS measures, developing countries can become more proactive in influencing the shape of measures before the country putting them forward finalizes them. Each WTO member has the right to comment after a country signals a changing SPS requirement. To comment effectively, the various stakeholders need to collaborate closely, notably the public sector and business, so that trade officials can object to any illegitimate SPS barriers either directly with the country concerned or through the SPS Committee at the WTO.

In some countries, creating a national SPS Committee has proved highly effective. Such a committee brings together relevant ministries and private sector organizations such as chambers of agriculture, commerce and industry, as well as exporters' associations.

For example, research carried out by the Commonwealth Secretariat and ITC highlighted a successful intervention in Mauritius stemming from a collaborative public-private sector approach (*for more information, see the article on "Technical Assistance for SPS Measures: Protect Health, Not Trade" in Forum 3/2002*).

## Tackling trading problems

**CASE** — Kenya imposed a ban on the import of day-old chicks from Mauritius because of concern about the disease, *Avian encephalomyelitis*. According to Mauritian documentation, no risk assessment had been carried out, no testing had been conducted and no notification of the measure had been made to WTO by Kenya. The Mauritian authorities, in consultation with the Mauritian mission in Geneva, considered various responses including raising the matter when the SPS Committee next met. At the same time, they sought advice from the OIE (World Organization for Animal Health) secretariat as to the status of *Avian encephalomyelitis*. In the event, the two countries settled the matter privately by Kenya withdrawing the ban.

Source: Forthcoming joint ITC/Commonwealth Secretariat publication on TBT and SPS.

## Become a standard-maker

The SPS Agreement requires WTO members to base their sanitary and phytosanitary protection measures on international standards, guidelines or recommendations, except in specific circumstances detailed in the agreement. Another way of influencing SPS measures, therefore, is for developing countries to participate actively in the standards-writing work of the three international

Developing countries can become more proactive in influencing SPS measures.

standard-setting organizations mentioned in the SPS Agreement. The business sector can transmit its concerns to its national delegations to the organizations, such as the national standards body which works with the International Organization for Standardization.

This is easier said than done, however, since the majority of developing countries are 'standard-takers' instead of 'standard-makers'. ITC and the Commonwealth

Secretariat carried out joint case studies of the SPS and TBT situation in six developing countries. They found that due to financial and other constraints, five out of the six countries did not participate actively at the technical committee level, which formulates standards. In the study, Malaysia was the exception. India was proactive when it came to international standard-setting for tea.

## Raising national standards

Exporting enterprises have to produce to the requirements of their target markets and demonstrate acceptable conformity to these requirements. Business sector stakeholders in developing countries can take a variety of steps to move towards these goals:

► **Help to plug gaps.** Although the public sector is responsible for providing the necessary infrastructure for import control

and export certification in the country, the private sector can complement its efforts. For instance, it could set up laboratory facilities where there is a gap in public sector capacity.

► **Start with voluntary standards.** Further, private sector organizations may set up voluntary standards to help a national industry achieve a collective minimum standard, as a first step to guide exporters towards complying with stricter SPS requirements in export markets.

► **Partner with importers.** Collaboration between businesses in exporting and importing countries can go a long way towards facilitating entry into target markets. The Liaison Committee Europe-Africa-Caribbean-Pacific (COLEACP) is an interesting example. COLEACP, which is financed by the EU, is an inter-professional association of exporters, importers and other stakeholders in the EU's horticultural trade with African, Caribbean and Pacific Group (ACP) countries. The body works to harmonize relations between producers and exporters of the ACP states and importers of fresh or processed fruit and

vegetables, and of flowers and plants. It also supports the promotion of ACP horticultural produce and is implementing a Pesticide Initiative Programme to assist exporters from ACP states to understand and react to the impending EU pesticide residue requirements.

## Planning market access

The regime of rights and obligations under the SPS Agreement enables countries to plan and implement coherent market access strategies. When devising a strategy, the business sector's expertise is critical, as is business 'buy-in' to the

## Influencing international standards

**CASE** — Malaysia has established a National Codex Committee and 12 Codex sub-committees which mirror the Codex Alimentarius committees of national interest. Industry representatives participate actively, especially the Malaysian Food Manufacturers Group. This has enabled Malaysia to play an active role in developing several Codex standards.

India has played a proactive role in formulating the international standard on tea, by preparing the committee draft for discussion. The result was that the international standard established by the International Organization for Standardization, ISO 3720: 1986, Black tea — Definition and basic requirements, took into account Indian views as the standard was finalized.

Sources: Malaysia — Joint ITC/Commonwealth Secretariat publication on TBT and SPS.

India — "Strengthening Developing Countries' Capacities to Respond to Health, Sanitary and Environmental Requirements", presented by Veena Jha at UNCTAD Standards and Trade Workshop (May 2002).



ITC's views on trade development and standards opened this issue of the *ISO Bulletin*.

process, since securing market access may take a long time and requires significant dedicated resources.

For all countries, a combined public-private approach to identify where SPS barriers might impact existing or potential exports most adversely is essential. The business community's experience can help government trade officials to understand where problems or opportunities exist for a country's exports. Through this consultation process, governments can assign priorities for market access efforts, on

## Ensuring positive trade outcomes

**CASE**—Obtaining market access for Ya Pear from Hebei province in the People's Republic of China to Australia took some eight years. In 1991, China requested access to Australia for this product. The risk assessment found out that 120 pests were associated with the fruit in the proposed export areas and 18 pests were of quarantine concern to Australia. Final import conditions included registration of orchards and packing facilities by Chinese quarantine authorities, and the application of pest management measures. The trade outcome was that 1,700 tonnes of the fruit were imported from late 1999 to early 2000 and no consignment was rejected.

Source: Presentation by Digby Gascoine from Australia, at a WTO Workshop on Risk Analysis (June 2000).

the basis of the probability of success and the value of potential exports. Once governments are convinced that there is a legitimate case to take up on behalf of their exporters, they can take the following consecutive steps to smooth the flow of trade:

- ▶ Consult bilaterally with target importing countries to assess their information needs and to minimize delays for processing market access requests.
- ▶ If this approach does not succeed, the government of the exporting country can initiate informal discussions in the margins of the SPS Committee.
- ▶ If countries cannot solve a problem in private, they could raise it as a matter of specific trade interest in the SPS Committee. This may strongly influence the importing country to revise its policy.
- ▶ If the parties cannot reach an agreement, they could use the WTO dispute settlement procedure. This procedure has proved to be very effective, based on the evidence of the small number of disputes on SPS issues that have gone through the mechanism. The stepped approach outlined above, pursued in consultation and cooperation with the private sector, has the advantage of being market-driven.

## Using what's there

Many of the examples above show that a substantial network of information providers and sound market intelligence sources on SPS — often available free of

## Useful contacts

The main international standardizing bodies for SPS are:

- ▶ Codex Alimentarius Commission (<http://www.codexalimentarius.net>), covering food standards.
- ▶ International Plant Protection Convention (<http://www.ippc.net>), covering standards to prevent the introduction of pests of plants and plant products through trade in these products
- ▶ Office international des épizooties (OIE — World Organization for Animal Health) (<http://www.oie.int>) covering standards to prevent the introduction of infectious agents and diseases from trade in animals, animal genetic material and animal products.

See also ITC's *World Directory of Information Sources on Standards, Conformity Assessment, Accreditation, Metrology, Technical Regulations, Sanitary and Phytosanitary Measures*, available on ITC's web site (<http://www.intracen.org/eqm>).

charge — is emerging. By utilizing this, for example through the effective use of notifications, developing countries and their exporting businesses will find it easier to deal with the challenges and take advantage of the opportunities associated with the SPS Agreement.

For all stakeholders involved, three steps mark the route for success:

- ▶ first, raising awareness of SPS rights and obligations in public and private sector constituencies within a country;
- ▶ second, reacting early and proactively — on both the business and the government sides — to forthcoming SPS changes which may impact export markets; and
- ▶ third, participating in the international standard-setting process in a targeted and informed way to ensure national interests are well represented.

There are no short cuts or quick fixes for understanding and benefiting from the SPS Agreement, but the potential upside for exporters when a country gets it right are enormous. ▽

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