

## EXECUTIVE SUMMARY

Sanitary and Phytosanitary (SPS) measures are necessary to protect human and animal health from foodborne diseases and other health risks and plants from pests and diseases. It is paramount that countries comply with international SPS measures when exporting/importing their Agri-products. However, it is common to observe that many developing countries face challenges in complying and implementing proper SPS measures.

At global level, the Standards and Trade Development Facility (STDF/WTO), a global partnership to facilitate safe trade. At continental level, the African Union Inter-African Bureau for Animal Resources (AU-IBAR) represents the African Union Commission at the World Animal Health Organization (OIE). In West Africa ECOWAS/ WAE-MU have agreed on the reduction of non-tariff barriers (NTBs). This is indeed necessary to limit the proliferation of procedural obstacles generated by overlapping regulations (e.g. certificates of origin, SPS certificates). In 2005, the regional strategic policy, the ECOWAP/ CAADP, was adopted in Ghana with the aim of assuring the financing of the agriculture.

This policy brief provides policy guidance to ECOWAS and facilitate compliance in order to boost trade especially in the context of Africa Continental Free Trade Area (AfCFTA)".

### This Policy brief was...

**Prepared by:** Dr. Benoit Gnonlonfin, Senior SPS Standards Advisor/ECOWAS -USA & Dr. Amadou Tall TA PESCAO/ECOWAS

**Supervised by:** Mr. Alain S. Traoré, Director ARD/ECOWAS

**Edited by:** Emmanuelle Maillot, Technical Assistant DARD/ECOWAS & Juliette Amouzou, Assistant-Accountant PESCAO/ECOWAS

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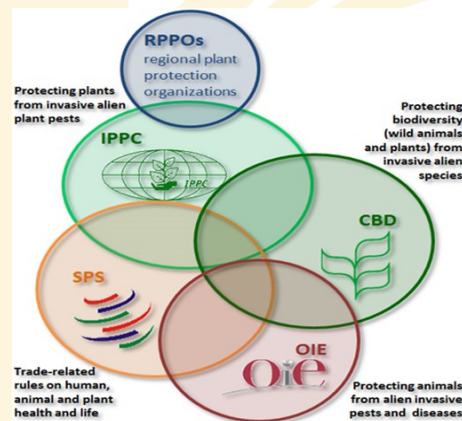
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## CHALLENGES TO COMPLY WITH SANITARY AND PHYTOSANITARY (SPS) REGULATION IN WEST AFRICA

### 1. INTRODUCTION & BACKGROUND

It is widely accepted that any country that plans to export agricultural products to another country will have to comply with SPS regulations in force in the targeted country. The World Trade Organization (WTO) defines SPS measures as *measures necessary to protect human and animal health from food borne diseases and other health risks and plants from pests and diseases*.

The different SPS measures must comply with the provisions of the Agreement on the Application of SPS Measures of the WTO. However, there are technical bodies (created before the SPS Agreement came into force in 1995) that guide the SPS Agreement of the WTO. These are the provisions of the FAO/WHO Codex Alimentarius Commission (**CAC or codex**) for food safety standards, the World Organization for Animal Health (**OIE**) for zoo-sanitary measures and the FAO's Secretariat of the International Plant Protection Convention (**IPPC**) for phytosanitary measures. Figure 1 illustrates the overlapping of the mandates between these different organizations.



Source: WTO.org

Our work will focus on the challenges of the ECOWAS countries in complying with the SPS regulations.

The Sanitary/Phytosanitary Measures (SPS) include all laws, decrees, regulations, code of practices, recommendations, requirements and procedures related to product criteria, processes, production methods, testing, inspection, certification, approval procedure, quarantine treatments, statistical methods, sampling procedures, risk assessment, packaging and labelling.

In Africa, particularly in West Africa, most of the countries face problems in achieving compliance with SPS measures. Significant improvements are continuing towards achieving regional integration, which has contributed to reductions in tariffs. However, the application of Non-Tariff Measures (**NTMs**), such as SPS measures, remain an impairment to trade. SPS measures are the groundwork for safe trade, as the aim is to protect countries from public health risks, and to promote animal and plant life and health. A weak national quality assurance/control system resulting in the lack of SPS enforcement can result in a ban from market access, whereas an effective quality assurance system facilitates trade.

In line with the African Union Commission on "Boosting intra- Africa trade" (**BIAT**), the ECOWAS Commission has launched a number of economic and social policy reforms in a bid to deepen regional integration through intra-regional trade in West Africa. The most noticeable initiatives include the adoption of a number of macro-economic and sector-wide policies, including the **ECOWAP/ CAADP**, which was adopted in January 2005. The aim is to guarantee sustainable development of the agri-forestry-pastoral and fisheries sector and strengthen food and nutrition security and food safety in different value chains for the population in West Africa.

The SPS measures should not be seen as measures to prohibit or impede on trade in agri-forestry-pastoral and fisheries products, but the reality shows that this can happen and this should be seen as counterproductive. In reality, there is room for using SPS measures as Non-Tariff Barriers (**NTB**) that can prevent access to foreign markets despite there being no tariffs imposed on the goods.

The following international standards are the relevant standard-setting organizations for the SPS Agreement (WTO Agreement "3sisters" Figure 2).

- The FAO/WHO Codex Alimentarius Commission: (**CAC or codex**) for food;
- World Organization for Animal Health (**OIE**);
- The FAO's Secretariat of the International Plant Protection Convention (**IPPC**).



### SPS Agreement



Source: WTO.org

## 2. PROBLEM STATEMENT

Africa has the world's highest per capita incidences of foodborne illness, claiming 137,000 lives a year and causing 91 million cases of sickness according to the World Health Organization.

The heaviest burden falls on children under the age of five. Therefore, there is a need for African agriculture to undergo a structural transformation to meet rising food demands while at the same time addressing the public health burden of foodborne illnesses.

The WTO SPS agreement has brought extreme difficulties and challenges for developing countries and Least Developing Countries (LDCs) (**Box 1**).

### **BOX 1: Challenges in implementing SPS in West Africa**

- Low budget allocated for SPS activities;
- Insufficient enforcement of the regulation where they exist;
- Low level of implantation at national levels of harmonized regulations;
- Limited laboratory capacity for testing and compliance;
- Overlapping authority of regulatory SPS monitoring agencies;
- Limited regional integration leading to several obstacles to regional cross border trade.

Source: Authors, 2018. Challenges in implementing SPS in West Africa

First, being standard-takers, developing countries and Least Developing Countries face a double disadvantage of bearing the costs of adjustment in upgrading trade infrastructure and adopting international standards.

Second, the same countries lack the capacity to challenge and better negotiate the foreign SPS measures that they feel are not scientifically justified or unjust; and to demonstrate that their SPS measures reach required standards.

As a result, they have to bear huge compliance costs or exit high-end/lucrative markets; or face numerous factors preventing them from implementing the SPS agreement due to a lack of compliance capacities.

Hence, it is absolutely necessary to assist developing countries and LDCs, particularly the West Africa region, to strengthen their trade facilitation abilities and enhance their SPS fulfillment.

Due to the variety and the complication of the EU requirements, many developing countries, enjoying a preferential market access quota under the Cotonou Agreement, have stopped exporting agricultural products because of the onerous financial and capacity burden to their industries.

## 3. GLOBAL, AUC and ECOWAS/UEMOA measures concerning the SPS agreement

There is a growing awareness about the importance of SPS matters, in terms of increasing market access for food and agri-forestry-pastoral and fisheries products - but also in terms of raising production levels and improving public health. Attitudes towards capacity

building are changing and new partnership models, including strong involvement of the private sector, are emerging.

At global level, the Standards and Trade Development Facility (STDF/WTO), a global partnership to facilitate safe trade, contributes to sustainable economic growth, poverty reduction and food security. It promotes improved food safety, animal and plant health capacity in developing countries.

STDF provides support to developing countries through project preparation grants (PPGs) to prepare technically sound and sustainable projects. Funds up to US\$ 50,000 are available for PPGs, which can involve the application of SPS-related capacity evaluation tools, preparation of feasibility studies and/or formulation of project proposals to address specific SPS capacity building needs linked to trade.

At continental level, the African Union Inter-African Bureau for Animal Resources (AU-IBAR) represents the African Union Commission at the World Animal Health Organization (OIE) and deals with subjects related to food safety.

Further, the African Union Inter-African Phytosanitary Council (AU-IAPSC) represents the continent at the IPPC. Both are observers in the WTO SPS committee, BUT NOT in the African Regional Standards Organization (ARSO).

The main gap is a food safety agency/authority dealing with the food safety issues. In this regard, one should note that the AU-member states summit adopted the continental SPS framework only last October 2019. Its effective implementation will require the establishment of such an authority/agency in the near future.

The African Union Commission (AUC) and the Regional Economic Communities (RECs), within the context of the African continental Free Trade Area (ACFTA), have important and privileged roles to play when it comes to improving SPS-related coordination and communication and advocating comprehensive multi-stakeholder approaches.

ECOWAS has observer status at the codex, IPPC, OIE and WTO SPS committee. Hence, this REC is heavily involved in the international standards setting processes. Also, it has supported countries to enhance their effective participation in these processes.

In addition, the ECOWAS Quality policy, signed in 2012, provides a solid foundation for a regional quality infrastructure cooperation in West Africa. The policy was derived from the West African Common Industrial Policy (**WACIP**), which emphasizes standardization, quality assurance, accreditation and metrology (SQAM/Quality Infrastructure).

In supporting deep regional integration, ECOWAS/ WAEMU have agreed on the reduction of non-tariff barriers (NTBs) as well the harmonization of ECOWAS and WAEMU regulatory frameworks. This is indeed necessary to limit the proliferation of procedural obstacles generated by overlapping regulations (e.g. certificates of origin, SPS certificates).

In 2005, the regional strategic policy, the ECOWAP/ CAADP, was adopted in Ghana with the aim of assuring the financing of the agriculture, livestock, forestry, fisheries and aquaculture sector. In the same line, the ECOWAS countries have approved a harmonized Regulation C/REG.21/11/10 related to the structural and operational rules for plant health, animal health and food safety.

## 4. CONCLUSIONS

The SPS agreement has brought a number of problems and challenges for developing countries and LDCs, most of which are related to trade facilitation and capacity building. WTO and development partners should assist in solving these problems, especially through technical assistance directed to developing countries.

It should be aimed at reducing SPS compliance costs through support in upgrading customs efficiency and modernizing the SPS systems, which will provide better protection for domestic public health, animal and plant life, and environmental safety, and, at the same time, cut down the SPS barriers caused by low transparency and complicated inspection requirements.

### **BOX 2: Reference regulatory framework**

Existing ECOWAS policies and regulations on agri-forestry, livestock and fisheries:

- ECOWAP: Strategic policy for the 2016-2025 ECOWAS Agricultural Policy (ECOWAP/ CAADP).
- Harmonized Regulation C/REG.21/11/10 related to the structural and operational rules for plant health, animal health and food safety in the ECOWAS region.
- Harmonized Regulation C/REG.3/05/2008 on the rules governing pesticides registration in ECOWAS region.

## 5. RECOMMENDATIONS

### For ECOWAS :

- **Prepare an ECOWAS multi-year capacity building program for the upscaling of the skills of the different actors involved in SPS issues (public and private);**
- **Provide financial resources for the participation of national executives/officers in the meetings of the three bodies and the SPS Committee. This will enable a better implementation of the provisions of the SPS Agreement at national and regional level;**
- **Cooperate with member states for the location and the construction and equipment of regional reference laboratories, involve in organizing risk assessments, risk management and communication;**
- **Develop a regional and harmonized food regulation to be integrated in the national laws of the member states;**
- **Create a conducive environment for the implementation of international / regional technical regulations, including: codes of practice, recommendations related to food safety and SPS, and supporting capacity building activities in food safety and SPS;**
- **Develop mechanisms to encourage stakeholders to increase investment in the food safety and sanitary and phytosanitary (SPS);**
- **Promote awareness campaigns on SPS implications on public health and international, regional and domestic trade;**
- **Improve the capacity of SPS inspectors of agricultural, animal and fisheries products.**

### For Multilateral and Bilateral Development partners :

- **Support the funding of the ECOWAS multi-year capacity building program for the different actors involved in SPS issues (public and private);**
- **Provide financial resources for the creation and equipment of reference laboratories for quality assurance testing in West Africa and facilitate the participation of representatives from Member States in Codex, OIE, IPPC and WTO SPS meetings.**

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**ECOWAS Commission**


**Department Agriculture, Environment and Natural Resources**

**Directorate Agriculture and Rural Development**

River Plaza Annex – 496 Abogo Largema Street - Central Business District

PMB 401 Abuja FCT – Federal Republic of Nigeria

 [agric\\_ruraldev@ecowas.int](mailto:agric_ruraldev@ecowas.int)

 [@ecowas.agriculture](https://www.facebook.com/ecowas.agriculture)

 [@ecowas\\_agric](https://twitter.com/ecowas_agric)