

**BRAZILIAN DRAFT TECHNICAL REGULATION ON THE IDENTITY AND
QUALITY OF CANNED SARDINES (G/SPS/N/BRA/666)**

Comments by Morocco

The following communication, received on 11 October 2010, is being circulated at the request of the delegation of Morocco.

1. In recent years, canned sardines have been the subject of unfair competition from species of canned fish of Latin American origin improperly labelled with the name "Sardines", put up for sale on the international market, especially in the European Union.

2. The description "Sardines" is used exclusively for *Sardina Pilchardus Walbaum*, of which Morocco is a leading global producer and exporter. Accordingly, marketing species other than *Sardina Pilchardus Walbaum* under the appellation canned sardines will have a negative and undeniable impact on the fish canning industry and may even jeopardize its future existence. In fact, improper use of this name is liable to mislead consumers and is intended to take advantage of the reputation earned by countries that have produced *Sardina Pilchardus Walbaum* for over a century and, consequently, may be prejudicial to the sectors concerned because of the socio-economic consequences that may ensue.

3. In light of Brazil's notification to the WTO in document G/SPS/N/BRA/666 regarding the Brazilian draft technical regulation on the identity and quality of canned sardines, Morocco considers that, even though this technical regulation must normally be notified under the TBT Agreement, this measure is more restrictive than necessary and is inconsistent with the SPS Agreement. Furthermore, it is contrary to the principles and practices agreed under the Codex for the introduction of new species of sardines. Morocco expresses its concern at the fact that its exports to Brazil could be confronted by this new measure, deemed stringent and not based on risk assessment. Indeed, in order to adopt technical regulations on new species of sardine that go beyond what is provided in Codex standard STAN 94-1981, the procedure for the inclusion of new species determined in the Codex must be followed.

4. The following are the inconsistencies noted between the Codex standard and the Brazilian draft technical regulation:

- (a) Article 3 of the Brazilian draft technical regulation provides that the raw material shall be composed, *inter alia*, of the species *Opisthonema libertate*, which is not listed in section 2.1 (Product definition) of Codex standard STAN 94-1981;
- (b) Article 5 of the Brazilian draft technical regulation does not comply with section 6.1 of the Codex standard STAN 94-1981 (Name of the food), which emphasizes that the

name "Sardines" shall be reserved exclusively for *Sardina Pilchardus Walbaum* and not *Sardina Janvier*, *Sardina Aurita*, as provided in the said regulation.

5. For other types of product, the name "X Sardines" is the most apt (X being the country of origin, geographic area, scientific or common name of the species), in order not to mislead consumers.

6. Morocco considers that the standards adopted by the Codex Alimentarius Commission constitute the global point of reference agreed at the international level for consumers, producers and processors of foodstuffs, national food inspection bodies and international trade in such products.

7. As a producer of sardines and an exporter of marine products, therefore, Morocco expresses its concern and its fear that the Brazilian measure could seriously jeopardize its exports of canned fish to Brazil, and requests further details on the draft technical regulation in question. Morocco asks the Brazilian authorities to review it within a reasonable period and bring it into line with Codex standard STAN 94-1981 so that it is not more trade-restrictive than necessary.
