



**COMMENTS FROM NORWAY TO THE DRAFT REPORT
OF THE FOURTH REVIEW OF THE SPS AGREEMENT (G/SPS/W/280/REV.2)**

COMMUNICATION FROM NORWAY

The following communication, received on 16 February 2016, is being circulated at the request of the Delegation of Norway.

Norway would like to provide the following comments to the outstanding issue on private standards in the Fourth Review draft paper:

1 SECTION 14.20. PROPOSED RECOMMENDATIONS

"14.20 *Recommendations*:

- *Members and Observer Governments are encouraged to provide information on any relevant studies or analysis which they have undertaken, or of which they are aware.*
- *The Committee should consider a specific problem identified by a Member that arises from an SPS-related private standard that affects its exports.*
- *The Committee should continue its implementation of agreed actions one to five (G/SPS/55). The Committee may also continue its considerations of other outstanding issues (G/SPS/W/256) and of relevant activities."*

1.1. The Committee has not been able to agree on these recommendations, and both the Committee and the Chair have come forward with several proposals of which all have been turned down.

1.2. In order to get out of the present deadlock in the SPS Committee and the challenges of finding consensus for the Fourth Review, Norway would like to propose that the SPS Committee in Section 14.20 in the Fourth Review starts with stating that some countries are of the opinion that Private Standards (PS) fall outside the scope of the SPS Agreement, as other countries are of the opinion that Private Standards fall within the scope of the Agreement. As a result of this lack of consensus, the SPS Committee agrees that the Committee disagrees on this particular question. Thus we can close the Fourth Review.

1.3. As a consequence of our basic view with regard to the status of PS in the Committee, and as a matter of consistency, we would like to replace "...Members are encouraged to..." with "may" in the proposed first recommendation below.

1.4. Norway proposes the following new wording:

Alternative I:

14.20. *Recommendations*:

- *The SPS Committee agrees on the fact that some Members are of the view that private standards are outside the scope of the SPS Agreement and thus related information exchanges should take place on the margins of the Committee meetings. Others,*

however, believe that private standards fall within the jurisdiction of the SPS Committee and that information exchange on these issues should be on the agenda of the Committee.

- *Members and Observer Governments may provide information on any relevant studies or analysis which they have undertaken, or of which they are aware.*
- *The Committee should continue its implementation of agreed actions one to five (G/SPS/55).*

Alternative II:

1.5. Another solution to finish the fourth review could be to leave out the points where the Committee is unable to agree. That would mean to take out point 14.20 point 2 ("*The Committee should consider a specific problem identified by a Member that arises from an SPS-related private standard that affects its exports*"), and introduce "may" in 14.20 second bullet point as mentioned above.

14.20 Recommendations would then read:

- *Members and Observer Governments may provide information on any relevant studies or analysis which they have undertaken, or of which they are aware.*
- *The Committee should continue its implementation of agreed actions one to five (G/SPS/55).*

2 DEFINITION OF SPS-RELATED PRIVATE STANDARDS

2.1. The Chair has proposed a package on SPS-related private standards which were discussed at a meeting in Geneva on 19 January. The meeting did not reach a consensus. Norway has been of the opinion that the SPS Committee has decided to postpone the definition to a later time, due to the fact that there has not been possible to reach a consensus on all the different proposals that the Committee has discussed. Should, however, the Committee decide to have a definition in the fourth review as part of a package, Norway would like to propose to adjust the proposed definition as follows:

"An SPS related private standard is a written requirement or condition, or a set of written requirements or conditions related to food safety, or animal or plant health that is used in commercial transactions and that is applied by a non-governmental authority, and as such falls outside the scope of the SPS Agreement. The working definition is without prejudice to the rights and obligations of Members, or the views of Members on the scope of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures."

2.2. In our view it is absolutely necessary to make it clear in the definition itself, that PS are not part of the SPS Agreement.
