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Committee on Sanitary and Phytosanitary Measures

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**FIFTH REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT
ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

SUBMISSION FROM BELIZE

The following communication, received on 13 September 2018, is being circulated at the request of the Delegation of Belize.

Belize would like to propose the following for consideration under the Fifth Review of the Operation and Implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures.

1 BACKGROUND

1.1. The Committee on Sanitary and Phytosanitary Measures has had "Concerns on Private and Commercial Standards" on its agenda since 2005, when Saint Vincent and the Grenadines first raised their concerns on the impact of EurepGAP pesticide requirements on the exportation of bananas to members of the European Union.

1.2. Following the concern raised by Saint Vincent and the Grenadines, and extensive discussions in the Committee, an ad hoc Working Group (WG) was established to help advance work on this agenda item. The output of the ad hoc working group consisted in the production of a document with twelve possible actions for consideration by the Committee, as listed in document G/SPS/W/256. Out of the twelve proposed actions, due to divergent views on whether this agenda item should be considered in the SPS Committee, members approved the first five proposed actions as contained in document G/SPS/55.

1.3. The Committee has not been able to make any significant advances on this agenda item, as some Members proposed that the first step be to establish a definition for "SPS-related private standards" and to date divergent views exist on what should constitute such a definition. Unfortunately, despite this standstill in the SPS Committee, retailers, buyers and certification programme owners continue to apply SPS requirements to trade in agricultural products without necessarily following the provisions of the SPS Agreement.

2 INTRODUCTION

2.1. It is common knowledge that "governments do not trade", and as such there is tremendous support for the responsibility of assuring the safety of the products, that are traded, to be placed on "those who produce it and sell it". However, we are of the position that guidance should be provided to the private sector to ensure that in the application of those measures, they do not undermine the multilateral trading system that has already established rules for the application of such measures.

2.2. The discussion in the Committee on concerns related to private and commercial standards are proof of what happens when guidance is not provided to the private sector.

2.3. Many are of the view that: "private standards are here to stay!" and with governments placing more responsibility on the private sector to ensure the safety of what they produce and sell, it is very likely that there may simply be an accelerated proliferation of private and commercial standards.

2.4. Additionally, some Members, in the modernization of their food safety laws and regulations, are recognising the role that third party assurance schemes play in fulfilling their legal mandate.

2.5. To that effect, a few Members have even submitted proposals to the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) for consideration and to date a physical working group has been advancing work on the document: "Guidance for Competent Authorities to assess third Party Assurance and its Potential to Inform National Food Control System Planning".

3 PROPOSAL

3.1. We propose that the SPS Committee commence its work in the development of guidelines for the implementation of Article 13 of the SPS Agreement. The agenda item of the Committee, the new emphasis of modernized food safety laws and regulations on the role of the private sector and the current work of CCFICS on third party assurance are enough justification to see the need for the elaboration of guidelines for the implementation of Article 13 of the SPS Agreement.

3.2. The second and third sentences within that provision (as cited below), are very clear on the roles of Members and their legal obligations as it pertains to providing guidance to those "other than central government bodies" and "non-governmental entities".

*"Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this agreement by **other than central government bodies**."*

*"Members shall take such reasonable measures as may be available to them to ensure that **non-governmental entities** within their territories as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provision of this Agreement."*

3.3. Work could be initiated in two different ways: by the formation of an ad hoc working group or by holding a workshop. However should the Committee agree to first holding a workshop, the following areas may be a few topics that the Committee may wish to explore:

- Members' experience in recognizing Third Party Assurance Schemes;
- CCFICS presentation on "Guidance for Competent Authorities to assess third Party Assurance and its Potential to Inform National Food Control System Planning";
- A Third Party Certification Programme Owner, a buyer or a retailer and their procedures in benchmarking with national requirements or with the standards, guidelines and recommendations of International Standard Setting Bodies recognized by the SPS Agreement; and
- Experiences of both exporting and importing countries on third party assurance schemes.

3.4. We believe that the development of guidelines for the implementation of Article 13 of the SPS Agreement will assist Members to comply with their legal obligation as it pertains to ensuring that "non-governmental entities" and "other than central government bodies" comply with the provisions of the SPS Agreement.
