

Committee on Sanitary and Phytosanitary Measures

PROPOSED WORKING DEFINITION OF SPS-RELATED PRIVATE STANDARDS

Note by the Secretariat¹

Revision

BACKGROUND

1. The SPS Committee has been discussing the issue of SPS-related private standards since June 2005, when Saint Vincent and the Grenadines raised a specific trade concern regarding EurepGAP (now called GLOBALGAP) requirements for bananas destined for sale in the United Kingdom.² Since then, private standards have been discussed regularly at SPS Committee meetings.
2. The SPS Committee decided in October 2008 to request an ad hoc working group to undertake a three-step study, and propose concrete actions for consideration by the Committee.³ The ad hoc working group presented its report on "Possible Actions for the SPS Committee Regarding SPS-Related Private Standards" to the SPS Committee in March 2011.⁴
3. At its March 2011 meeting, the Committee adopted five of the six actions put forward by the working group (G/SPS/55).
4. At the October 2011 SPS Committee meeting, the Chairman invited Members to submit specific proposals on a working definition of SPS-related private standards (Action 1) by 13 January 2012. Members were also invited to: (i) comment on the proposed definitions received; and (ii) submit proposals on the implementation of Actions 2 to 5, by 10 February 2012.
5. At informal meetings held in March and July 2012, the Committee discussed a draft working definition of SPS-related private standards based on proposals and inputs received, as well as a first revision based on comments made at the March 2012 informal meeting.⁵ This second revision of the draft working definition of SPS-related private standards reflects comments made at the July 2012 informal meeting, and is presented for consideration by the Committee at its meeting in October 2012.

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

² G/SPS/R/37/Rev.1, paras. 16-20; G/SPS/GEN/766; STC No. 219.

³ See paras. 4-7 of G/SPS/W/230 and paras. 122-137 of G/SPS/R/53.

⁴ G/SPS/W/256.

⁵ G/SPS/W/265 and G/SPS/W/265/Rev.1.

I. PROPOSED WORKING DEFINITION

"SPS-related private standards are [voluntary, market] requirements which are [developed and/or] applied by [private] [non-governmental] entities [⁶] in order to protect human, animal or plant life or health."

OR

"SPS-related private standards are [voluntary, market] requirements which are [developed and/or] applied by [private] [non-governmental] entities [⁷], which may [directly or indirectly] affect international trade, and which relate to one of the following objectives:

- (a) to protect animal or plant life or health [within the territory of the Member] from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health [within the territory of the Member] from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- (c) to protect human life or health [within the territory of the Member] from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; and
- (d) to prevent or limit other damage [within the territory of the Member] from the entry, establishment or spread of pests."

II. ADDITIONAL ELEMENTS TO CONSIDER

6. SPS-related private standards include technical requirements, guidelines and recommendations.

7. To assess whether an SPS-related private standard may affect international trade, the Member concerned should consider relevant available information such as: the value or other importance of imports to the importing and/or exporting Members concerned, whether from other Members individually or collectively; the potential development of such imports; and difficulties for producers in other Members, particularly in developing country Members, to comply with the proposed SPS-related private standard. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.⁸

8. SPS-related private standards can be developed by [private] [non-governmental] entities themselves, or may be derived from existing private, official or international standards, and are applied for [private] [non-governmental] entities' commercial objectives as part of a private, commercial and contractual relationship. SPS-related private standards are not developed, endorsed

⁶ A non-governmental entity is any entity that does not possess, exercise, or is not vested with governmental authority. Non-governmental entities are private entities, including private sector bodies, companies, industrial organizations, enterprises and private standard-setting bodies.

⁷ A non-governmental entity is any entity that does not possess, exercise, or is not vested with governmental authority. Non-governmental entities are private entities, including private sector bodies, companies, industrial organizations, enterprises and private standard-setting bodies.

⁸ See G/SPS/7/Rev.3, para. 10.

or promulgated by the Codex Alimentarius Commission (Codex), the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE).

9. Official SPS measures implemented by a Member (including SPS measures implemented by governments other than the national government, or by non-governmental entities on behalf of a Member) are not SPS-related private standards.

10. [Where an SPS-related private standard becomes an official SPS measure, it is no longer considered to be an SPS-related private standard.]
