

Reconciling EU and USA Approaches to SPS Standards in Seafood and Horticulture: A Developing Countries View

Dr Stephen Mbithi

(info@fpeak.org or stephen_mwikya@yahoo.com)

Paper presented at IPC Agritrade meeting in Geneva, 26 June 2008

SPS Standards: what is not controversial

- They are necessary
 - Passport to international trade
- Important, **especially** for small scale producers in developing countries
 - Integrating small scale fishers into global trade
 - A case for lake victoria
 - 45,000fishers, all small scale
 - Integrating small scale farmers into global trade
 - A case for Kenyan horticulture
 - 1.5 mil farmers, many on green beans

SPS Protocol: What went wrong?

- Set standards collectively:
 - Envisaged – all under codex alimentarius, IPPC and OIE
 - Reality ‘side-stepping codex’ (different thresholds)
 - Taking care of own citizens
 - Are codex, OIE and IPPC too bureaucratic?
- Harmonize Procedures- Equivalence
 - Envisaged...harmonized procedures
 - Reality...each importer has different procedures.
 - No trust...verify directly or force ‘same-ness’
- Facilitate Trade:
 - Implement ‘only what is minimum necessary for the risk, taking into account economic viability’
 - Reality: arbitrary use of precautionary principle...for long
 - Set the rules tough...and ‘avail some assistance’?!

Legal: The pre-clearance issue

- The Pest Risk Analysis Issue (USA)
 - Crop by crop, and through federal register
 - Public comments
 - Up to 7 years (average 3-5 years) after assessment
 - Some capacity building or delay as a NTB tool?
 - Necessary? Every crop and every disease new and specific to that country to justify reinventing the wheel?
 - No recognition for export country certificates
 - Equivalence? Building capacity in developing countries

The Competent Authority Structure (EU)

- List I, II or III for fish
- Legislative changes
 - The EU directives in domestic legislation
- Institutional changes:
 - No multiple agencies, but one-stop
 - Excellent idea, but costs money, lots of it
- Prescribed compliance structures only
 - No variants, even if similar efficacy
 - Equivalence or sameness?
- Routine audits...
 - By FVO of DG SANCO
 - But approval by domestic 'Competent Authority'

Institutional issues

- One-stop shop or inter-agency cooperation?
 - The case for DG SANCO
 - The case for FDA, Homeland security, APHIS...
- Doing checks at EU –USA level or exporting compliance structures and transferring responsibility?

Technical Assistance

- Obligated or voluntary
 - Of course voluntary, but what if importing country sets a higher standard?
 - Risk assessment: burden of proof, who?
- Compliance structures,
 - in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies
- Outside or within WTO SPS protocol?
 - Creating bargaining teams

Private standards

- ‘Alternative to’ or ‘in conjunction with’ official control systems
 - The pros and cons
 - Facilitating market access in developing countries
- Subvention?
 - Or testing the waters
- ‘Market access’ or ‘product differentiation’
 - The thin line
- Needed, a systems approach
 - Escalating Costs and confusion (duplication, multiplicity)

Thank you