



# DISCUSSION ON FOOD SAFETY POLICY, TRADE STANDARDS, AND HARMONIZATION AND CAPACITY BUILDING ON PREVENTIVE CONTROLS QUALIFIED INDIVIDUAL AND LEAD INSTRUCTORS

ALISA HOTEL, ACCRA, GHANA

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SPS harmonization discussion, 16-17 August 2018



Training sessions, PCQI and LI, 20-25 August 2018



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## List of Acronyms and abbreviations

AATF	African Agricultural Technology Foundation
Abs	Accreditation Bodies
AGOA	African Growth and Opportunity
APHIS	Animal and Plant Health Inspection Service
AU	Africa Union
B2B	Business-To-Business
CAFTA	Central America Free Trade Agreement
CCPs	Critical Control Points
CFTA	Continental Free Trade Area
COMESA	Common Market for Eastern and Southern Africa
EAC	East Africa Community
EAGC	East Africa Grain Council
EATIH	East Africa Trade and Investment Hub
ECOWAS	Economic Community of West African States
EPA	Environmental Protection Agency
EU	European Union
FAS	Foreign Agricultural Service
FAW	Fall Army Worm
FDA	Food and Drug Administration
FSIS	Food Safety and Inspection Service
FSMA	Food Safety Modernization Act
FSPCA	Food Safety Preventive Controls Alliance
FSVP	Foreign Supplier Verification Programs
FTAs	Free Trade Agreements
GATT	General Agreement on Tariffs and Trade
GE	Genetically Engineered
HACCP	Hazard Analysis Critical Control Point
IPM	Integrated pest management
IPPC	International Plant Protection Convention
ISO	International Standards Organization
ISPMs	International Standards for Phytosanitary Measures
KEPHIS	Kenya Plant Inspectorate Service
LDCs	Least Developed Countries
MLND	Maize Lethal Necrosis Disease
MoH [Kenya]	Ministry of Health in Kenya
MRLs	Maximum Residue Levels
NAFTA	North American Free Trade Agreement
NFSCC	National Food Safety Coordination Committee
NGOs	Non-Governmental Organizations
NPPOs	National Plant Protection Organization
NSPSCs	National Sanitary and Phytosanitary Committees
NTMs	Non-tariff measures
OIE	World Organization for Animal Health



PANSPSO	Participation of African nations in sanitary and phytosanitary standard setting organizations
PCAF	Preventive Controls for Animal Foods
PCHF	Potentially Hazardous Food
PPP	Public-Private Partnership
RECs	Regional Economic Communities
ROI	Return on Investment
SI	Standards Institutes
SMART	Specific, Measurable, Agreed Upon, Realistic and Time-Bound
SME	Small and Medium Enterprises
SoPs	Standard Operating Procedures
SPS	Sanitary and Phytosanitary
STCs	Specific Trade Concerns
STDF	Standard Trade and Development Facility
TBS	Tanzania Bureau of Statistic
TBT	Technical Barriers to Trade
TC	Technical Committee
TFA	Trade Facilitation Agreement
TFDA	Tanzania Food and Drugs Authority
ToRs	Terms of Reference
TPC	Third Party Certification
TPSC	Trade Policy Standing Committee
U.S.A	United States of America
UNIDO	United Nations Industrial Development Organization
USDA	United States Department of Agriculture
USTR	United States Trade Representative
WTO	World Trade Organization



## **I/ Preamble**

The U.S. Government and the African Partner States signed a Cooperation Agreement on Trade Facilitation, Sanitary and Phytosanitary (SPS) measures, and Technical Barriers to Trade (TBT). The objective of the cooperation agreement is to increase exports, expand investment, create jobs and stimulate economic growth through improved cooperation on trade facilitation, SPS and TBT measures. Article 2 of the cooperation agreement focuses on enhancing the technical capacity in the African Partner States (West Africa, EAC, et al.) for the consistent implementation of science-based SPS measures, including promoting greater use of and compliance with international standards, guidelines, and recommendations, as well as good regulatory practices.

Furthermore, in June 2015, the African Growth and Opportunity Act (AGOA) was renewed/extended for 10 years, from 2015 to 2025. In this regard, key value chains will be prioritized for trade policy and business support in consultation with national government entities, civil society and the private sector, in order to take advantage of opportunities offered under AGOA.

Private sector enterprises interested in accessing U.S. markets need to be appraised on the food safety standards requirements, including pesticide residues, food safety trade standards, and provisions of the Food Safety Modernization Act (FSMA).

### **Food Safety Awareness and Capacity Assessment Programs**

The ECOWAS Commission, the USDA—Foreign Agricultural Service (FAS), the U.S. Food and Drug Administration (FDA), USAID West Africa Trade and Investment Hub (WATIH), the African Agricultural Technology Foundation (AATF), USAID/USDA Food Safety Network (FSN), and the Food Safety Preventive Controls Alliance (FSPCA) will convene two awareness workshops on international and U.S. food safety standards. The workshops will target 15 West African countries (Benin, Burkina Faso, Cape Verde, Cote d’Ivoire, The Gambia, Ghana, Guinea Conakry, Guinea Bissao, Mali, Liberia, Niger, Nigeria, Senegal, Sierra Leone, Togo), representatives from African Union Commission, other relevant institutions, hosting the second workshop in Accra, Ghana; the workshops will take place early in August 2018, precise dates will be determined in consultation between the parties.

The workshops will:

1. Serve to inform government ministries and private sector entities on the importance of practical food safety measures and their effect on compliance with international trade standards, especially in reference to U.S. market access.
2. Begin a dialog between the public and private sector that can inform national action planning to meet SPS and food safety standards and facilitate trade (SPS and food safety harmonization discussion).



3. Provide an opportunity for participants to establish a network of food safety experts, including FSMA experts on which they may call after the workshop conclusion.
4. Qualify individuals to take FSPCA lead instructor training that will allow the impact of these first workshops to multiply to additional preventive controls training.

Workshop topics will include (but are not limited to):

- Good Agricultural Practices (GAPs) – including proper fertilizer and pesticide use and the implications of improper use of these on agricultural trade;
- Good Manufacturing Practices (GMPs);
- Hazard analysis and risk-based preventive controls for human and animal food;
- Implications of the FSMA Foreign Supplier Verification Program (FSVP);
- Mitigation strategies to protect food against intentional adulteration.
- Exercises/case studies will be tailored to specific African situations.
- FSPCA Lead Instructor training for vetted participants
- Background of the U.S. Food Safety System

## **1. Welcoming and Opening Remarks**

Mr. Chris Peterson, Program Manager at USDA-FAS welcomed the participants and mentioned that the workshop is an ongoing discussion on the alignment of food safety controls, food standards, Sanitary and Phytosanitary measures. He hoped that the conclusions would be an avenue for Member States of ECOWAS to use good practices to support the functioning of national SPS committees and to take advantages of the provisions of the SPS agreement and scientifically based actions to stimulate more trade. He concluded in thanking ECOWAS, AATF, AU and UEMOA for their collaboration.

Regarding the training workshop on Preventive Controls Qualified Individual (PCQI) and Lead Instructor (LI), Mr. Chris Peterson, Dr. Seydou Samake, Regional SPS advisor, USAID, Mr. Charles Rush, Agriculture Counsellor, USAID and Mr. Alain Sy Traore, Director of Agriculture and Rural Development, ECOWAS Commission, addressed the participants, respectively. Mr. Alain Sy Traore opened the training sessions.

## **2. Summary of the WTO SPS Agreement**

Dr. Benoit Gnonlonfin gave an overview of the WTO SPS Agreement.

Following this presentation, Dr. Vivian Iwar mentioned that there is an ECOWAS SPS harmonization regulation while the topic presented has been done many times to member states during the implementation of the PANSPSO program of AU-IBAR.

The workshop is not about training but the presentations are meant to set the scene for the discussion.

A round self-introduction was done as well as comments on the objectives of the workshop, the priority areas and the presentation. The table summarizing the interventions is presented below.



Intervenient	Summary of comments made
Raphael Coly, Consultant	The items of the agenda related to Overview of the WTO SPS Agreement as well as those related to the international standards setting organizations should have been done by representatives of countries since they have received trainings on these topics during the implementation the AU-IBAR's PANSPSO project. Such an arrangement brings more engagement of the participants in the workshop and provide ownership. This is suggested for future workshops and trainings in order to build on what other projects or interventions have done and to ensure continued capacity building
Abdoulaye Ndiaye, Senegal	The workshop should have built on results of past projects such as PANSPSO of AU-IBAR. Expectations are more in concrete actions related to the implementation of the ECOWAS SPS harmonization of regulations. Improved national consultation mechanism as well as encourage generation of scientific data
Ivo Mendes, Guinea Bissau	The government has issued a legal text to recognize the national SPS committee. Request ECOWAS to strengthen the capacity of SPS committees and to support the training of its members.
Ms. Abdou, Niger	ECOWAS is encouraged to be more active in the harmonization of SPS measures Niger need support in the implementation of activities related to SPS matters. Mobility of staffs (competent authority) is a challenge.
Hilaire UEMOA	Issue on the mobilization of financial resources for harmonization
Yacouba Sylla, Guinea	Policy on SPS harmonization should begin at countries level before the regional (ECOWAS) level. Need for capacity building of national SPS committees (national Codex committees are more functional than SPS committees)
Kazia Tchala, Togo	The SPS committee is functional. Support requests is yet to be sent ECOWAS for capacity building. Request was submitted and approved by STDF to strengthen the fruit and vegetable value chain.
Jacques Benin	National Codex committee benefits from the Codex trust funds. A decree is awaited from the government to recognize the national SPS committee and to get a budget to ensure its functioning. ECOWAS is encouraged to foster the SPS harmonization. Need to strengthen laboratory
Sylvain Ouedraogo, CSP/CILSS	Pesticides homologation for UEMOA member countries which concern is to meet the SPS measures. The main concern is to meet the requirements of the region in term of pesticide homologation to seek SPS harmonization at regional level.
Cote d'Ivoire	National SPS committee is a subcommittee for the time being but efforts are being made to reorganize it and to set a proper SPS committee.
Charles, Codex contact point, Nigeria	Government bodies involved in SPS matters receive trust funds to support their related activities. Focal points are nominated in each Office to represent at the national SPS committee.



	Challenges faced to implement international standards.
John Opong-Otoo AU-IBAR	Information sharing on SPS is very important. Provided information of PANSPSO project and the implementation of activities. Training model exists. Support to countries to organize national trainings. Model TORs exists to establish national SPS committees Recommendation made to establish a permanent coordination mechanism Sustainability established through the Standards and Trade Secretariat for food safety and animal health Build capacities based on good practices. Build strategies on regional harmonization and set coordination mechanism with regional bodies
Mahamadou SAKO, Mali	There is an ECOWAS SPS regulation (Regulation 211110) adopted in November 2010 that harmonized all SPS issues in particular in chapter 7 of regulation on harmonization. Need to go through the harmonized regulation of ECOWAS to understand it and build a strategy to implement it.
Babacar Samb, Senegal	Mentioned SPS capacity building made in many countries of the region to meet export requirements of EU member countries under COLEACP and PIP
Dieudonne, Consultant on potato research institution Nairobi/Kenya	Most research centers don't know much the SPS Agreement. Eager to learn more from the workshop in order to provide adequate expertise to meet SPS requirements
Ms. Mariam SOME, Burkina Faso	National SPS committee in place since 2012. ECOWAS technical assistance is needed by member states. ECOWAS SPS regulation being identic to UEMOA why not developing strategies for its implementation.
Vivian Iwar	The harmonized SPS regulation of ECOWAS dated in 2010. National budgets to provide funds to run SPS activities All 15 ECOWAS member states formed their national SPS committees Regional veterinary committee set at ECOWAS and a plan to set a Veterinary Drug Committee
Ghana	Need to build on what AU-IBAR has done on SPS. Avoid duplication of efforts – Build on best practices – Focus on country priorities. Seek more consultation/coordination of regional organizations
Augustus, Liberia	Support on SPS matters provided by USAID, WATH, BTSF and AU-IBAR (PANSPSO) Willingness at country level to coordinate the work on SPS National SPS committee and national Codex committee are in place.
Ms. Raymonda NPPO & IPPC focal point Sierra Leone	Agriculture is now the backbone on the development agenda National SPS committee in place Government faces challenges to support the work on SPS matters due to many engagements to resolve current disasters



	<p>STDF is requested to help the country set a national plan on SPS</p> <p>Request from USDA, USAID, AU-IBAR to support the country on SPS work</p> <p>Call for more collaboration in the region</p> <p>Call for working under the One Health agenda and to bring SPS matters on board.</p>
Dr. Seydou Samake, USDA/USAID Ghana	<p>Recommend the support of animal health, food safety and plant health for member countries through ECOWAS.</p> <p>Recommend the setting of an ECOWAS SPS regional strategy and a judicious use of funds to solve priority SPS issues identified by member countries</p>
Abed/David AATF	<p>Similar workshop was organized in East Africa and some concerns are similar. Other partners are also interested on SPS harmonization.</p> <p>Countries are eager to move forward.</p> <p>ECOWAS should set priorities and provide support to member countries.</p>
Benoit,	<p>An audit has been done through consultation in July 2017. Issues identified will be addressed.</p> <p>Identified priorities will be also addressed.</p>

### 3./ Discussion on the implementation of the SPS Agreement. What are the challenges for its implementation?

#### Roundtable

Table that captured the challenges

Challenges	Political will	Legislation	Funding is a problem	Awareness issue	Leadership CB problem	Coordination issue	Others issues
Countries							
Liberia		Outdated	+	+	+		Lab issue
Sierra Leone	+	Some are outdated	+	+	+		One health platform, Lab issue
Senegal	+		+	+	+		Focus on major issues, Lab issue
Burkina Faso	+		+	+	+	+	
Niger	+	+	+	+	+	+	Fast turnover
Guinea Bissau	+		+	+			Lab issue, one health issue
Cote d'Ivoire	+	+	+	+	+	+	
Togo	+		+	+	+	+	STDF funding
Benin	+	+	+	+	+	+	Lab issue
Guinee	+	+	+	+	+	+	
Ghana	+	+	+	+	+	+	Vet law not existing



Nigeria	+	+	+	+	+	+	Data collection challenge
Mali	+		Funding from exports revenues	+	+		Lab is not an issue
ECOWAS (Vivian Iwar)	+	Legislation is a challenge a number of countries	Funding is an issue for all countries. Beneficiaries should participate in the funding	+	+	+	Support countries on pesticides management
AATF			+				Some issues on SPS at ECOWAS are similar with those in East Africa
AU-IBAR	+		+				SPS national structures differ from one to another country. Look for success stories Lab accreditation: seek competency and capacity to generate data

#### 4./ Benefits of regional harmonization of food safety policy: experiences and lessons learned

Introduction made by Benoit on fall armyworm and training made in Togo as well as on the regional approach/harmonized standard on aflatoxin.

The interventions that followed are mainly on:

Antimicrobial resistance (AMR) which is now a real concern for ECOWAS member countries. At continental level the AU-CDC Agency has organized a workshop on how to implement the strategies and to agree on one continental framework considering the concept of One Health. Current antimicrobial uses are on veterinary medicine and medical sector. National action plans on AMR are in place in many countries.

ECOWAS and UEMOA have given the mandate to CILSS to harmonize pesticides homologation. One is of the opinion that issues on plant health have not been on the one health concept and that this concept is the best approach with regard to AMR issue.



Harmonized approach is made with regard to MRLs data generation for minor uses in order to penetrate lucrative markets.

Need to harmonize sampling and inspection procedures.

Use of STDF to mobilize funds in order to resolve harmonization needs identified at community level.

ECOWAS SPS regulatory can be used to identify gaps and to develop guidelines.

UEMOA and CILSS have harmonized regulations of member countries for the regional homologation of pesticides.

## **5./ Key points for prioritization process**

See table below (annex 4)

**Friday 17<sup>th</sup> August 2018**

## **6./ Case study – national SPS committees**

An open discussion on national SPS committees was held.

Reminder has been provided that Head of States of the African Union, taking into consideration the lack of coordination at country and regional levels on SPS work and the absence of political and financial support in this area which is very critical for the trade of African produces at regional and international levels issued a decision to request all AU member states to create national SPS committees. They requested AU to implement that decision.

Harmonized guidelines texts have been developed as well as TORs on the setting process of regional and national SPS committees with RECs and MS.

At ECOWAS level, countries are at different level in the establishment of SPS committees.

It is important to understand that the national SPS committees are mainly inter-sectoral SPS coordination mechanism on SPS with the involvement of the OIE focal point, IPPC focal point, Codex contact point as well as National Notification Officer usual located at the Ministry of Trade/Commerce. Members of the SPS committee are officers from government agencies, private sector stakeholders, academia, consumer associations, research institutions, etc.

The work is in progress on the strengthening of the SPS committees as well as its legalization.

## **Options for moving forward**

The situation analysis of the national SPS committees (NSPSC) (see summary table in annex 3) as well as the case study has brought the participants to discuss what will be the solution to improve the functioning of the SPS committees on the region.

The proposal is a strategy/action plan of three years which is described below (Annex 1). The annual workplan will follow the calendar of the SPS events as set for each of the three



international standards setting organizations (OIE, IPPC, CODEX), the WTO SPS Committee and the regional and continental events on SPS work.

The funding of the activities will from national budgets, AU, ECOWAS and development partners.



**Annex 1. ECOWAS REGIONAL SPS ACTION PLAN 2019-2021 (Emergency plan)**

Activity	Responsible institution (s)	Indicator (s)	Yr1 (2019)				Yr2 (2020)				Yr3 (2021)			
			T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4
<b>1. Governance: SPS activities at national level strengthened</b>														
<b>Activity 1.1 Development of guidance document for the legalizing of SPS committees in MS</b>	ECOWAS/UEMOA/CILSS	1 guidance document available and disseminated to 15 MS by end of first quarter in 2019												
<b>Activity 1.2<sup>1</sup> Support development of legal text for SPS committee in MS where such do not exist (Benin, Cote d'Ivoire, Cape Verde, Mali, Sierra Leone, Liberia)</b>	MS with support of ECOWAS <sup>2</sup>	6 legal texts approved in 6 MS by end of 2019												
<b>Activity 1.3 Support for the development of national SPS strategic/workplan in line with international standards setting bodies and the ECOWAS plan</b>	Each MS/ECOWAS/UEMOA/CILSS	SPS workplan available in 15 MS by the end of 2019												
			<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>
<b>2. Raising awareness and engaging regulators, private sector actors, academia on SPS issues</b>														
<b>Activity 2.1 Organizing advocacy meetings (information, sensitization)</b>	Each MS /ECOWAS/UEMOA/CILSS	-1 advocacy document developed and at least 6 advocacy												

<sup>1</sup> All other MS that does not have the legal text should also manage to comply by the end of 2019.

<sup>2</sup> ECOWAS Commission to send official letter to all MS on the case by case basis to facilitate the process at national level



		meetings organized by end of 2021													
<b>Activity 2.2 Development<sup>3</sup> and implementation of sensitization materials (take stock from the existing materials e.g. STDF)</b>	ECOWAS/UEMOA/CILSS/each MS	1 sensitization material developed and at least 6 meetings held by end of 2021													
			<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	
<b>3. Regional harmonized SPS regulations domesticated at national level</b>															
<b>Activity 3.1 Development of guidance document on how to harmonize regional SPS regulation into national texts</b>	ECOWAS/UEMOA/CILSS	1 guidance document developed and disseminated to 15 MS by end of 2019													
<b>Activity 3.2 Organization of national consultation and harmonization meetings on common position on SPS matters of interest</b>	Each MS with support of ECOWAS/UEMOA/CILSS	At least 3 meetings held in each MS by end of 2021													
			<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	
<b>4. Needed a priority list of commodities/issues within each category of plant health, animal health and food safety</b>															
<b>Activity 4.1 Updating/Establishment of regional regulated pests list</b>	Each MS/ECOWAS/UEMOA/CILSS	1 list available and disseminated by end of 2019													
<b>Activity 4.2 Strengthening/Establishment of risk analysis (RA) network</b>	ECOWAS/UEMOA/CILSS/each MS	1 RA network available by end of 2021													
<b>Activity 4.3 Training on control and inspection (borders, etc..)</b>	ECOWAS/UEMOA/CILSS/each MS	At least 3 trainings and 150 inspectors													

<sup>3</sup> The development should end by 2020



		trained by end of 2021												
<b>Activity 4.4 Training on how to negotiate at international level</b>	ECOWAS/UEMOA/CILSS	At least 1 training and 60 contacts points trained by end of 2021												
<b>Activity 4.5 Infrastructure: Laboratory capacity</b>	ECOWAS/UEMOA/CILSS	At least 5 MS supported by end of 2021												
			<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>
<b>5. Resource mobilisation</b>	All													



## Annex 2. Participants List

Note: \* Lead instructors (LI); \*\* Preventive Controls Qualified Individuals (PCQI)

Last name	First name	Organization	Country	email
Samb	Babacar	BIOSCOPE/consultant /resource person	Senegal	<a href="mailto:bioscope@arc.sn">bioscope@arc.sn</a>
Harahagazwe	Dieudonne	CIP/Consultant/resource person	Kenya	<a href="mailto:dharahagazwe@yahoo.fr">dharahagazwe@yahoo.fr</a>
Oppong-Otoo	John	AU-IBAR, AUC	Kenya	<a href="mailto:john.oppong-otoo@au-ibar.org">john.oppong-otoo@au-ibar.org</a>
Coly	Raphael	ALDID/Consultant/resource person	Senegal	<a href="mailto:raphaelcoly@gmail.com">raphaelcoly@gmail.com</a>
Iwar	Vivian	DARD/ECOWAS	Nigeria	<a href="mailto:ethelwar@yahoo.com">ethelwar@yahoo.com</a>
Samake	Seydou	USAID	Ghana	<a href="mailto:ssamake@usaid.gov">ssamake@usaid.gov</a>
Gnonlonfin	Benoit	SPS/ECOWAS	Nigeria	<a href="mailto:bnnonlonfin74@gmail.com">bnnonlonfin74@gmail.com</a>
Ndiaye	Abdoulaye	SPS focal point/Division législation DPV	Senegal	<a href="mailto:layedpv@gmail.com">layedpv@gmail.com</a>
Fahnbulleh	Augustus B. G.	Plant and Animal Quarantine, IPPC Focal Point, WTO-SPS	Liberia	<a href="mailto:augustusfahnbulleh@ymail.com">augustusfahnbulleh@ymail.com</a>
Some	Mariam	IPPC focal point/Direction de la Protection des Végétaux et du Conditionnement (DPVC)	Burkina Faso	<a href="mailto:mariamsome@yahoo.fr">mariamsome@yahoo.fr</a>
Sanou	Hilaire	UEMOA	Burkina Faso	<a href="mailto:hsanou@uemoa.int">hsanou@uemoa.int</a>
Tarus	David	AATF	Kenya	<a href="mailto:d.tarus@aatf-africa.org">d.tarus@aatf-africa.org</a>
Mathagu	Abed	AATF	Kenya	<a href="mailto:a.mathagu@aatf-africa.org">a.mathagu@aatf-africa.org</a>
Peterson*	Chris	USDA	Washington, USA	<a href="mailto:Chris.Peterson@fas.usda.gov">Chris.Peterson@fas.usda.gov</a>
Hougbenou*	Jacques	Codex Contact point	Benin	<a href="mailto:jacquos75@yahoo.fr">jacquos75@yahoo.fr</a>
Nwagbara**	Charles Emeka	Codex Contact point	Nigeria	<a href="mailto:charles_nwagbara@yahoo.com">charles_nwagbara@yahoo.com</a>
Traore*	Sy Alain	DARD/ECOWAS	Nigeria	<a href="mailto:atraore@ecowas.int">atraore@ecowas.int</a>
Kouassi	NGuessan Gaston	Inspecteur Phytosanitaire	Cote d'Ivoire	<a href="mailto:nsangaston@yahoo.fr">nsangaston@yahoo.fr</a>
Sylla	Yacouba	Institut Guineen de Normalisation et de Metrologie	Guinea	<a href="mailto:inm89@yahoo.fr">inm89@yahoo.fr</a>
Mendes	Ivo	SPS contact point	Guinea Bissao	<a href="mailto:imendes4@yahoo.fr">imendes4@yahoo.fr</a>
Ouedraogo	Sylvain	INSAH/Pesticide/CILSS	Mali	<a href="mailto:sylvain.ouedraogo@cilss.int">sylvain.ouedraogo@cilss.int</a>



Douki Abdou**	Alimantou	Direction Generale de la Protection des Vegetaux, Niger	Niger	<a href="mailto:douki_a@yahoo.fr">douki_a@yahoo.fr</a>
Kazia**	Tchala	Institut Togolaise de Recherche Agricole, Togo	Togo	<a href="mailto:kaziatchala@yahoo.fr">kaziatchala@yahoo.fr</a>
Diarra**	Dramane	Direction Nationale de l'Agriculture (DNA), Mali	Mali	<a href="mailto:dramadiar@yahoo.fr">dramadiar@yahoo.fr</a>
Adossou**	Eric	Service de la Protection des Végétaux et du Contrôle Phytosanitaire	Benin	<a href="mailto:ericadossou2@yahoo.fr">ericadossou2@yahoo.fr</a>
Joyfe**	Helena K.	Department of Regional Development, Research and Extension (DRDRE)	Liberia	<a href="mailto:helenakjoyfe@gmail.com">helenakjoyfe@gmail.com</a>
Jackson**	Arnold	Nigerian Export Promotion Council	Nigeria	<a href="mailto:arnjacku@gmail.com">arnjacku@gmail.com</a>
Tape**	Stanislas	Laboratoire National d'Essais de Qualité de Métrologie et d'Analyses (LANEMA), Cote d'Ivoire	Cote D'Ivoire	<a href="mailto:stantape@gmail.com">stantape@gmail.com</a>
Ceesay**	Ousman	General Veterinary Service, Gambia	Gambia	<a href="mailto:olisman8976@yahoo.com">olisman8976@yahoo.com</a>
Appiah-Kusi**	Pokuua	Ghana Standards Authority	Ghana	<a href="mailto:prispok@icloud.com">prispok@icloud.com</a>
Musabyemariya*	Bellancille	Ecole Inter-Etats des Sciences et Médecine Vétérinaires de Dakar (EISMV)	Senegal	<a href="mailto:bellacil@hotmail.com">bellacil@hotmail.com</a>
Harahagazwe*	Dieudonne	International Potato Centre (CIP)-Nairobi	Kenya	<a href="mailto:धारहगजवे@yahoo.fr">धारहगजवे@yahoo.fr</a>
Hougenou*	Egnon Jacques	Direction de l'Alimentation et de la Nutrition Appliquée, Benin	Benin	<a href="mailto:Jacquos75@yahoo.fr">Jacquos75@yahoo.fr</a>
Adoukpe*	Ferdinand	Laboratoire de Toxicologie, Université d'Abomey-Calavi, Benin	Benin	<a href="mailto:amefer2000@yahoo.fr">amefer2000@yahoo.fr</a>
Jaiteh*	Lamin	Food Safety Authority of Gambia	Gambia	<a href="mailto:laminjaiteh56@outlook.com">laminjaiteh56@outlook.com</a>
Sako*	Mahamadou	Agence Nationale de la Sécurité Sanitaire des Aliments, Mali	Mali	<a href="mailto:madoundjini@gmail.com">madoundjini@gmail.com</a>
Johnson*	Raymonda	Plant Protection, Ministry of Agriculture and Forestry, Sierra Leone	Sierra Leone	<a href="mailto:raymonda.johnson@yahoo.com">raymonda.johnson@yahoo.com</a>
Kambire*	Sansan Régis Cyrille	Ministère en charge de l'Agriculture, Burkina Faso	Burkina Faso	<a href="mailto:kambiresansancyrilleregis@gmail.com">kambiresansancyrilleregis@gmail.com</a>
Traore*	Sy Alain	Directorate of Agriculture and Rural Development,	ECOWAS/Nigeria	<a href="mailto:atraore@ecowas.int">atraore@ecowas.int</a>



		ECOWAS Commission		
Amoh*	Dorcas Doreen	Food Safety Consultant, Ghana	Ghana	<a href="mailto:damoh@africancashewalliance.com">damoh@africancashewalliance.com</a>
Dickson*	Kennedy Ankugah	Veterinary Services Directorate, Ghana	Ghana	<a href="mailto:kdicksonk@yahoo.co.uk">kdicksonk@yahoo.co.uk</a>
Sewade*	Lagnon Patrice	Réseau National des ONG actives dans l'Agriculture durable, Benin	Benin	<a href="mailto:patsewade@yahoo.fr">patsewade@yahoo.fr</a>
Cheetham*	Mingle	Food and drugs Authority, Ghana	Ghana	<a href="mailto:lcmingle@gmail.com">lcmingle@gmail.com</a>
Eshun*	Naomi	Ghana Standards Authority	Ghana	<a href="mailto:mena_amo@yahoo.co.uk">mena_amo@yahoo.co.uk</a>
Toninga*	Felicity	Veterinary Services Directorate, Ghana	Ghana	<a href="mailto:fotoninga@yahoo.co.uk">fotoninga@yahoo.co.uk</a>
March	Kelly	United States Department of Agriculture	US	<a href="mailto:Kelly.March@fas.usda.gov">Kelly.March@fas.usda.gov</a>
Rush	Charles	USAID	Ghana	<a href="mailto:Charles.Rush@fas.usda.gov">Charles.Rush@fas.usda.gov</a>
Yeboah**	Nana Akwa	Food and drugs authority	Ghana	<a href="mailto:nanaykua@hotmail.com">nanaykua@hotmail.com</a>
Rosalyn**	N.N. Baddoo	Syecom	Ghana	<a href="mailto:naanorkor27@gmail.com">naanorkor27@gmail.com</a>
Yawson**	Mattlao Nasr	Food and drugs authority	Ghana	<a href="mailto:nosway7@gmail.com">nosway7@gmail.com</a>
Jorge	Olivera	USAID	Ghana	<a href="mailto:joliveira@usaid.gov">joliveira@usaid.gov</a>
Hamlin	Catherine	USAID	Ghana	<a href="mailto:chamlin@usaid.gov">chamlin@usaid.gov</a>
Ouattara-Ayanou	Halima	USAID	Ghana	<a href="mailto:houattaraayanou@usaid.gov">houattaraayanou@usaid.gov</a>
Mintah	Claude	Plant Protection and Regulatory Services Directorate /MOFA	Ghana	<a href="mailto:kwamintah2@yahoo.com">kwamintah2@yahoo.com</a>
Asante	Fred	Plant Protection and Regulatory Services Directorate /MOFA	Ghana	<a href="mailto:fredasante@gmail.com">fredasante@gmail.com</a>
Scott	Jenny	FDA	US	<a href="mailto:Jenny.Scott@fda.hhs.gov">Jenny.Scott@fda.hhs.gov</a>
Wilkin	Edith	Leprino Foods Co., Denver, CO	US	<a href="mailto:ewilkin@leprinofoods.com">ewilkin@leprinofoods.com</a>
Ansah-Amprofi	Felicia	Plant Protection and regulatory services directorate	Ghana	<a href="mailto:fampronge@yahoo.com">fampronge@yahoo.com</a>
Attipoe	Prudence	Plant Protection and regulatory services directorate	Ghana	<a href="mailto:tonattipoe@yahoo.co.uk">tonattipoe@yahoo.co.uk</a>



### Annex 3. Situational analysis of national SPS committees

<b>REVIEW (JULY 2017) OF NATIONAL SPS COMMITTEE- ECOWAS MEMBER STATES</b>			
<b>Country</b>	<b>Formalized committee</b>	<b>Date of creation</b>	<b>Legal text</b>
Benin	NO	-	-
Burkina Faso	Yes	28 Aug. 2012	Arreté conjoint No 2012-28/MRA/MAH/MS/MICA
Cape Verde	NO	-	-
Cote d'Ivoire	NO	-	-
Gambia	Yes	09 Feb. 2016	-
Ghana	Yes	16 Dec. 2011	-
Guinea	Yes	22 Aug. 2011	Arreté No A/4827/SGS/2011
Guinea Bissao	Yes	28 May 2011	Decret DESPACHO No13/2017
Liberia	Yes	2015	-
Mali	NO	-	-
Niger	Yes	24 Dec. 2010	Arreté No 226/MAG/EL
Nigeria	Yes	20 Nov. 2012	-
Senegal	Yes	21 Dec. 2015	Arreté No 23019
Sierra Leone	NO	-	-
Togo	Yes	23 May 2012	Decret No 2012-031/PR



**Annex 4. Priority list of commodities**

Animal health	Food Safety	Plant health	Food Safety
Meat	anti-microbial resistant (AMR)	maize,	Aflatoxin/Mycotoxin; pesticide residues; anti-microbial resistant (AMR)
Milk	aflatoxin	Rice	Arsenic;
Fish	Histamine, pesticide residue; mercury, cadmium, microbes (salmonella, etc..)	Cassava	cassava mosaic virus; locust;
Live animals	PPR, avian influenza, food and mouth disease, CBPP	cocoa	Heavy metals (Cadmium, Lead, mercury); cocoa black pods)
		Groundnut	Aflatoxin/Mycotoxin; pesticide residues; anti-microbial resistant (AMR)
		sorghum	Aflatoxin/Mycotoxin; pesticide residues; anti-microbial resistant (AMR)
		Fruits	Fruit fly

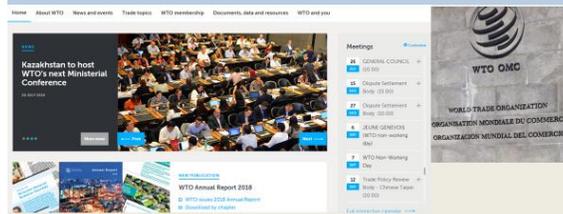
*Note: This list is not exhaustive*



## Annex 5. Overview of WTO SPS agreement

### THE SUMMARY WTO AND SPS AGREEMENT

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### THE SPS AGREEMENT

- Basic rules for food safety and animal and plant health standards.
- Allows countries to set their own standards. But it also says regulations must be based on science.
- Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification.
- Allows countries to use different standards and different methods of inspecting products.



### SPS MEASURES



## SPS AGREEMENT: BASIC RIGHTS

- “All members have the right to protect their human, animal, or plant life or health
- provided that such measures are not inconsistent with this agreement.”



## SPS AGREEMENT: BASIC OBLIGATIONS

Any SPS measure must:

- “be applied only to the extent necessary to protect human, animal or plant life or health”;
- “be based on scientific principles”; and
- “not be maintained without sufficient scientific evidence”.



## SPS AGREEMENT: HARMONIZATION

- “WTO Members shall base their SPS measures on international standards, guidelines, code of practices or recommendations, where they exist.”
- The International Standards are set by the Three Sisters:
  - Codex Alimentarius – Food Safety
  - World Organization for Animal Health
  - International Plant Protection Convention – Plant Health



IPPC



OIE



Codex



## SPS AGREEMENT: HARMONIZATION, CONT.

Stricter (than international) SPS measures are allowed:

- if there is a scientific justification; or
- if the Member determines that a higher level of protection is appropriate, based on a **risk assessment**.

## SPS AGREEMENT: ASSESSMENT OF RISK

SPS measures must be “based on an assessment ... of the risks to human, animal or plant life or health ....”

- Account for
  - scientific evidence; relevant processes and production methods;
  - relevant inspection, sampling and testing methods;
  - prevalence of specific diseases or pests;
  - existence of pest- or disease-free areas;
  - relevant ecological and environmental conditions; and
  - quarantine or other treatment.
- Minimize negative trade effects
- Consider relevant economic factors

## SPS AGREEMENT: APPROPRIATE LEVEL OF SPS PROTECTION

- The SPS Agreement recognizes the right of each WTO Member to determine its own appropriate level of protection.
- However, this should be done with “the objective of achieving **consistency**”

## SPS AGREEMENT: PEST OR DISEASE FREE AREAS

Import measures shall be adjusted to the SPS characteristics of the area from which a product is exported, even if the region is only part of the exporting country.



## SPS AGREEMENT: **TRANSPARENCY**

- Members shall notify changes in their SPS measures
- Members shall maintain enquiry points
- Annex B Notification procedures:
  - Publish regulations at any early stage
  - Early notification
  - Provide copies of the proposed regulation
  - Reasonable comment period for other Members to make comments in writing, discuss these comments upon request and take comments and results of the discussions into account

## BENEFITS OF TAKING COMMENTS INTO ACCOUNT

- Supports accountability
- Sustains confidence in the legal environment
- Makes regulations
  - More secure and accessible, and
  - More cost-effective
- Less influenced by special interests, and
- Therefore more open to competition, trade and investment.
- Access to public knowledge, understanding that government doesn't have all the answers, information, data etc.
- Comments are added to the public record/docket for transparency.

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## SPS AGREEMENT: TRANSPARENCY

The graphic for the ePing SPS & TBT notification alert system features a central world map with a red circle labeled 'WTO' in the center. Colored arrows (yellow, red, black) radiate from the map to various icons representing different trade and safety aspects: a warning sign, a truck, a factory, a person, and a document. To the left of the map are three vertical panels: 'Search notifications' with a person at a computer, 'Register for alerts' with a bell icon, and 'Collaborate' with two people talking. Below the map is the text 'Keep track of product requirements in foreign markets'. At the bottom, the website 'www.epingalert.org' is listed alongside logos for WTO OMC, International Trade Centre, and the United Nations.

\*Image from WTO

## WTO SPS COMMITTEE

Regular forum for consultation and to carry out functions related to implementing the SPS Agreement

- Non-discrimination
- Based on science: international standards or risk assessment
- No more trade restrictive than necessary
- Transparency



## SPS COMMITTEE: ROLE OF INTERNATIONAL STANDARDS

- Encourage and **monitor** the use of international standards
- Sponsor technical consultation and study
  - “with objective of **increasing coordination and integration between international and national systems** and approaches for [...] establishing tolerances for contaminants in food...”
- Maintain close contact with Codex
  - “with objective of securing the **best available scientific and technical advice...**”

## SPS COMMITTEE: ROLE ON SPECIFIC TRADE CONCERNS (STCs)

- Forum for consultations with countries to **resolve trade concerns** with specific SPS measures
- Raise trade concerns, singly and **in coalitions**, on the "floor" of the Committee
- Provides **regular access to SPS and trade officials** for "bilateral" meetings on the margins



## SPS Agreement: Contents

### 14 Articles and Annexes A, B, C

#### ➤ Articles

- Article 1: General provisions
- Article 2: Basic rights and obligations
- Article 3: Harmonization
- Article 4: Equivalence
- Article 5: Assessment of Risk and determination of the appropriate level of sanitary or phytosanitary protection
- Article 6: Adaptation to regional conditions, including Pest or Disease-free areas and areas of low pest or disease prevalence
- Article 7: Transparency
- Article 8: Control, Inspection and Approval Procedures
- Article 9: Technical assistance
- Article 10: Special and differential treatment
- Article 11: Consultations and disputes settlement
- Article 12: Administration
- Article 13: Implementation
- Article 14: Final Provisions

## SPS Agreement: Contents (Cont.)

#### ➤ Annexes

- **Annex A: Definitions**
- **Annex B: Transparency of Sanitary and Phytosanitary Regulations**
  - Publication of regulations
  - Enquiry points
  - Notification procedures
  - General reservations
- **Annex C: Control, Inspection and Approval Procedures**

## TBT Agreement: Contents

### ➤ Key 12 Articles and Annex 1

- Article 1: General provisions
- Article 2: Preparation, Adoption and Application of Technical Regulations by Central Government Bodies
- Article 4: Preparation, Adoption and Application of Standards
- Article 5: Procedures for assessment of conformity by Central Government Bodies
- Article 6: Recognition of conformity assessment by Central Government Bodies
- Article 9: International and Regional Systems
- Article 11: Technical Assistance to other Members
- Article 12: Special and differential treatment of developing country Members

### ➤ Annex 1: Terms and their definitions for the purpose of this agreement



## QUESTIONS?

Discussion