

Challenges and Impact of Private Standards



Delilah A. Cabb Ayala B.Sc.
M.Sc.

Belize Agricultural Health Authority

19 October 2009

Background

- ❑ First trade concern with respect to the impact of private standards raised in the SPS Committee in June 2005 by Saint Vincent and the Grenadines
- ❑ Since the concern is shared by several developing countries the issue of private standards becomes an agenda item on the SPS Committee
- ❑ Concerns centre mostly on the negative impact that private standards are having on the market access opportunities of products originating from developing countries.
- ❑ December 2008 the SPS Committee begins a process for the documentation of cases

Case Reports

- ❑ Most of the Private Standards have SPS components but also include other issues such as social, labour and environmental conditions
- ❑ In many cases there is a need for multiple certification requirements for the same product entering a particular country due to each private scheme having its own set of criteria for market access
- ❑ For the purposes of the SPS Committee, decision is made to focus only on private SPS standards

Case Reports

- ❑ Certification costs are very high resulting in several small producers losing market access and the medium and large size enterprises find it increasingly difficult to remain on the market
- ❑ Additionally, the proliferation of private standards presents a greater challenge

Main concerns

- ❑ Lack of Scientific Justification
- ❑ Deviation from international standards
- ❑ Double Certification
- ❑ High Costs Associated with Compliance and Certification
- ❑ Increase in proliferation of private standards
- ❑ Most of the claims are misleading to consumers since they do not necessarily result in higher degree of safety
- ❑ More Trade restrictive than necessary
- ❑ Lack of harmonization
- ❑ Lack of transparency
- ❑ Seems to be no room for negotiations using the principle of equivalence

Risks

- If the proliferation of private SPS standards continue unabated the consequences could be drastic for certain economies that are already vulnerable
 - A few economies are trading in one commodity only which is being affected negatively by private SPS standards
 - Many small and medium size producers are finding it increasingly difficult to remain in the market; a few have already had to cease operations
 - Loss of jobs, social unrest
 - Food security could become a major concern
 - Puts into question the role and responsibility of the WTO and Members

Concern as Members of the WTO

- ❑ Article II of the Marrakesh Agreement Establishing the WTO states “The WTO shall provide the common institutional framework for the conduct of trade among its Members...”
- ❑ Rights and Obligations of Countries that are Signatories
- ❑ Interpretation of Article 13 of the WTO/SPS Agreement & Guidelines for its implementation

Possible Solutions

- Countries can engage in negotiations of agreements on equivalence
 - Recognition of Competent Authorities
 - Increase of Confidence between trading partners
 - Thereby fostering consumer confidence in the capacity of the national authorities to safeguard agricultural health and food safety

Possible Solutions

- Private Standards Schemes could develop a mechanism in which they base their SPS standards on science. In this regard perhaps one solution would be to see if they can work closely with the standard setting organizations recognized by the SPS Committee

Possible Solutions

- Private Standards Schemes can work on improving the transparency process aligned with the development and implementation of SPS standards
 - Drafting process/consultation similar to and linked to the process set in place by the SPS Committee
 - Allowing comment period
 - Period for implementation and granting time for compliance and assistance to developing and least developing countries to comply

Possible Solutions

- In the area of harmonization
 - Private Standards Setting Entities could engage in dialogue and harmonize their standards and requirements
- Dialogue with Governments
 - Where private standard setting entities feel that certain standards should be in place they should engage in dialogue and consultations with Government entities for the elaboration of such standards (**National systems exist for the elaboration and implementation of standards and technical regulations**)

Summary

- ❑ The issue of private standards is not simple but rather complex
- ❑ Although a few positive cases with respect to their impact has been documented, the majority speak to negative impact so it is something that has to be dealt with in the SPS Committee
- ❑ Solution will require that Governments, ISSBs, Private Standard Setting Bodies and Others dialogue with a view to finding a mutually satisfactory solution

Summary

□ In the interim

- It will be helpful if Members can continue to raise their concerns in the SPS Committee
- That guidelines be implemented for the interpretation of Article 13 of the SPS Committee
- That the International Standard Setting Bodies recognized by the SPS Committee provide the Committee with updates in matters relating to private standards
- Dialogue continues with entities that set and/or are involved in private standards

Summary

- As we speak – private standards are affecting the trade in goods of products
 - Is it possible then to find a simple solution to a complex problem?