

Standards and Trade  
Development Facility

# Regional SPS Frameworks and Strategies in Africa





# **REGIONAL SANITARY AND PHYTOSANITARY FRAMEWORKS AND STRATEGIES IN AFRICA**

**Report for the Standards and Trade Development Facility (STDF)**

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This report reflects the views of the author alone and does not represent the views of the STDF, or any of its partner agencies or donors, nor does it reflect the position or interpretation of the AUC, the RECs, or any other organization.

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## **FOREWORD**

This study includes a preliminary analysis of regional SPS policy frameworks in Africa in light of the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the standard-setting activities of the Codex Alimentarius (Codex), the World Organisation for Animal Health (OIE) and the International Plant Protection Convention (IPPC), and explores the possibility of further actions. The study comes at a time of growing awareness about the importance of SPS matters, in terms of increasing market access for food and agricultural products - but also in terms of raising production levels and improving public health. Attitudes towards capacity building are changing and new partnership models, including strong involvement of the private sector, are emerging.

Within this context, the African Union Commission (AUC) and the Regional Economic Communities (RECs) have important and privileged roles to play when it comes to improving SPS-related coordination and communication and advocating comprehensive multi-stakeholder approaches. The purpose of this study is not to judge the current roles and activities of the AUC and the RECs in the SPS area. It is hoped that this study will be a modest contribution to the development of coherent regional SPS policy frameworks, strategies and action plans and lead to an optimal use of scarce national, regional and international resources.



## ACRONYMS

AfDB	African Development Bank
AMPRIP	Agricultural Marketing Promotion and Regional Integration Project
AMU	Arab Maghreb Union
AUC	African Union Commission
AU/IBAR	African Union Inter-African Bureau for Animal Resources
AU/IAPSC	African Union Inter-African Phytosanitary Council
BTSF	Better Training for Safer Food
CAC	Codex Alimentarius Commission
CAHFSA	Caribbean Agricultural Health and Food Safety Agency
CBPP	Chronic Contagious Bovine Pleuro-pneumonia
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Community of Sahel-Saharan States
CGP	COMESA Green Pass
CILLS	Comité permanent Inter-États de Lutte contre la Sécheresse dans le Sahel
COLEAP	Europe-Africa-Caribbean-Pacific Liaison Committee
COMESA	Common Market for Eastern and Southern Africa
CPM	(IPPC) Commission on Phytosanitary Measures
DFID	United Kingdom Department for International Development
DREA	Department of Rural Economy and Agriculture
EAC	East African Community
ECCAS	Economic Community of Central African States/Communauté Économique des États d'Afrique Centrale (CEEAC)
ECOWAS	Economic Community Of West African States
EFSA	European Food Safety Authority
EU	European Union
FAO	United Nations Food and Agriculture Organization
FMD	Food and Mouth Disease
FSCBRC	Food Safety Capacity Building on Residue Control

FTA	Free Trade Act
GDP	Gross Domestic Product
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
HACCP	Hazard Analysis Critical Control Point
IGAD	Intergovernmental Authority on Development
IICA	Inter-American Institute for Cooperation in Agriculture
ILRI	International Livestock Research Institute
IPF	IGAD Partners Forum
IPPC	International Plant Protection Convention
IRCC	EAC, IGAD, SADC Intergovernmental Coordinating Committee
ISPM	International Standards for Phytosanitary Measures
ISSOs	International Standard-setting Organizations
LIP	(IGAD) Livestock Information Portal
LSD	Lysergic Acid Diethylamide
MRL	Maximum Residue Level
NEPAD	New Partnership for Africa's Development
NORAD	Norwegian Agency for Development Co-operation
NPPO	National Plant Protection Organization
OAU	Organization of African Union
OIE	World Organisation for Animal Health
OSS	Sahara and Sahel Observatory
PAN-SPSO	Participation of African Nations in Sanitary and Phytosanitary Standards-Setting Organizations
PCE	IPPC Phytosanitary Capacity Evaluation Tool
PPG	Project Preparation Grant
PPR	Peste Des Petits Ruminants
PRA	Pest Risk Analysis
PRINT	Promotion of Regional Integration
PVS	(OIE) Tool for the Evaluation of Performance of Veterinary Services

REC	Regional Economic Community
RPPO	Regional Plant Protection Organization
RVF	Rift Valley Fever
SADC	Southern African Development Community
SADCSTAN	SADC Cooperation in Standardization
SPS	Sanitary and Phytosanitary
SPS Agreement	Agreement on the Application of Sanitary and Phytosanitary Measures
SPS IMS	SPS Information Management System
SPTA	IPPC Strategic Planning and Technical Assistance
SQAM	Standardization, Quality Assurance, Accreditation and Metrology
STDF	Standards and Trade Development Facility
TAD	Transboundary Animal Disease
TBT	Technical Barriers to Trade
WAEMU/UEMOA	West African Economic and Monetary Union / Union Économique et Monétaire Ouest Africaine
UNCCD	United Nations Convention to Combat Desertification
UNIDO	United Nations Industrial Development Organization
USA	United States of America
USAID	United States Agency for International Development
WHO	World Health Organization
WTO	World Trade Organization



## EXECUTIVE SUMMARY

1. This scoping study, conducted at the request of the African Union Commission (AUC), assesses the regional SPS policy frameworks and strategies in Africa. At the center of the many challenges to address SPS issues is the absence of national strategies to deal with food safety, animal and plant health measures. Inadequate SPS measures, often without legislative basis, severely reduce export capacity and the ability to control imports. The AUC and the Regional Economic Communities (RECs) have an important role to play in addressing these issues in Africa.
2. The RECs have a mandate to develop legal and technical instruments to help their member states manage SPS issues. Many RECs have developed regional SPS policy frameworks which "mirror" the WTO SPS Agreement, raising risks of duplication and questionable added value. There is no evidence that those frameworks which have been implemented have achieved their aims, and most of the SPS activities undertaken by the RECs are independent of the policy frameworks.
3. Regional SPS committees are supposed to play a central strategic role. However these depend on often faltering national coordination bodies. The development of clear SPS strategies and plans of action for their members should be a priority for many RECs.
4. Several RECs have recently requested observer status in the WTO SPS Committee. Their involvement in the Committee should help avoid duplication of work in areas already well- addressed by the SPS Committee (transparency, equivalence, regionalization, etc.). The AUC should also request observer status and, in cooperation with the RECs, help develop the institutional capacity of African countries to actively participate in the SPS Committee.
5. While regional standards may be justified in certain circumstances, there is a risk of overlap or contradiction with international standards, resulting in unnecessary trade restrictions. Scarce human resources would be better used for greater participation of RECs in international standard-setting activities. AUC officials should also be involved at the international level.
6. The AUC could play an overarching role in resource mobilization and building political awareness and high level support. It should promote coordination and harmonization of SPS policies and strategies among the RECs, and encourage RECs and member states to adopt common positions in international SPS fora. However, the value of a "general SPS policy framework" at the African Union level is questionable. Another legal or institutional layer could make it more difficult for African countries to benefit from the WTO SPS Agreement and the standards set by Codex, OIE and IPPC. It is more important to ensure that adequate management mechanisms are in place.
7. The African Union's Inter-African Bureau for Animal Resources (AU/IBAR) and Inter-African Phytosanitary Council (AU/IAPSC) play important management roles with respect to animal health and plant protection, and their role should be further strengthened. There is no similar body to deal with food safety issues, and the establishment of a food safety dedicated structure should be one of the AUC's priorities. The Department of Rural Economy and Agriculture (DREA) could oversee coordination among the three technical bodies, with responsibility for the development of a coherent food chain holistic approach.
8. Attitudes towards capacity building are changing and new partnership models, including strong involvement of the private sector, are emerging. The RECs and AUC are logical partners in the capacity building activities of international donors that increasingly endorse a demand-driven and "hands-on" approach. The AUC also has a role to play in improved efforts at coordination.
9. To effectively assume an ambitious role in the SPS area, the AUC and RECs need to address a number of weaknesses, including limited SPS-dedicated human resources, ensure member states implementation of policy frameworks, and establish clear strategies for future action.



## **I. INTRODUCTION**

1. In April 2009, the African Union Commission (AUC) and the European Commission (EC) jointly organized a High Level Conference in Addis Ababa, Ethiopia, entitled: "Institutionalizing SPS in Africa: Promoting Regional Integration in Rules, Standards, Controls and Procedures". The aim of the Conference was to launch the EC-funded programme "Better Training for Safer Food (BTSF) in Africa", which is one of the delivery tools of the Joint Africa-European Union Strategy and its first Action Plan 2008-2010. Both documents identify the strengthening of SPS capacity in Africa as a priority area.

2. At the Conference suggestions were made on how to move the SPS agenda forward by taking a step-wise approach, starting with an assessment of current regional SPS policy frameworks in Africa in the context of the WTO SPS Agreement and the International Standard Setting Organizations (ISSOs). This would have to be followed by a stakeholder consultation workshop for discussion and feedback and eventually by the development, adoption and implementation of an overarching SPS framework at the continental level.

3. Following the High Level Conference, the AUC requested the STDF - through a Project Preparation Grant (PPG) - to finance a scoping study to inform and assess the necessity of further action in the SPS area at the level of the AUC and the Regional Economic Communities (RECs). Specifically, this study should:

- (i) assess existing SPS frameworks/strategies/action plans at RECs level (in terms of their value added over and above the SPS Agreement, contradictory provisions, etc.);
- (ii) assess current tasks and responsibilities of the AUC and the RECs in the SPS area; and
- (iii) provide recommendations on the future role of the AUC and RECs in the SPS area - including a description of follow-up actions to be taken at RECs and AUC levels.

4. Funding for the scoping study was granted by the STDF Working Group in July 2009. The author was selected by the AUC as the consultant for this study in August 2009 and contracted by the WTO/STDF Secretariat in September 2009. In particular, the author was requested to:

- (i) collect and analyze the relevant SPS frameworks, protocols, strategies, action plans, etc. adopted, or in the process of being adopted, by the RECs, within the wider context of the WTO SPS Agreement and the international standards set by the Codex Alimentarius Commission (CAC), the World Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC);
- (ii) collect and analyze other relevant information, such as SPS needs' assessments conducted at the regional level, and including information provided by the AUC, as well as key multilateral and bilateral donor organizations funding and/or implementing projects and programmes at the regional level;
- (iii) identify and interview (by e-mail and telephone) key SPS officials within the RECs, the AUC and other relevant organizations with a view to obtain and analyze the information as outlined under i) and ii) above;
- (iv) participate in two regional one-day meetings convening SPS officials of the RECs and the AUC on the margins of the Steering Committee of the EC-funded "PAN-SPSO" project.

- the first meeting was held at AU/IBAR headquarters in Nairobi, Kenya, on 6 October 2009. The planned scoping study was introduced, preliminary findings were presented, and officials of the AUC and the RECs submitted their initial inputs;
  - the second meeting was hosted by AU/IAPSC on 12 March 2010 in Douala, Cameroon. The draft study was presented and additional comments were provided.
- (v) draft the scoping study and present the final document - including concrete recommendations on further actions to be taken at a date to be jointly agreed by the consultant and the STDF Secretariat, but in no event later than 30 June 2010 close of business.

5. Following the introduction in Chapter I, this report is structured as follows. Chapter II briefly outlines the methodology used in the elaboration of the study. Chapter III summarizes the international context, i.e. the scope of the WTO SPS Agreement and the mandate and activities of the relevant ISSOs (Codex, OIE and IPPC). Chapter IV introduces and analyses the relevant SPS policy frameworks, strategies and actions plans of the AUC and the RECs. Chapters V and VI identify weaknesses and challenges as well as strengths and opportunities related to the existence and use of regional SPS policy frameworks, while Chapter VII highlights suggested areas for future work. Conclusions and recommendations are contained in Chapter VIII. Annex 1 provides a bibliography, while Annexes 2 and 3 include the PPG application form and the author's terms of reference. Annex 4 provides an overview of country membership in the relevant RECs and the WTO, and of the RECs' position in the WTO SPS Committee and ISSOs.

## **II. METHODOLOGY**

6. At the outset, it is to be noted that the financial resources available to conduct this scoping study were limited. It was not possible, for instance, to undertake targeted missions to a selected number of RECs and the AUC headquarters, as foreseen in the original PPG application, to interview relevant key stakeholders and obtain information. This made an in-depth analysis of the regional SPS situation in Africa more difficult and the study should be seen in this context. It is a first attempt to identify and assess the myriad of regional SPS policy frameworks and strategies in Africa in order to guide future work in this area.

7. The methodology used consisted essentially in desk research work with intensive use of internet, email and telephone, including interviews with some of the relevant stakeholders. The author collected and analyzed the existing and planned regional SPS frameworks, strategies and action plans, as well as other relevant information published and/or provided by key multilateral and bilateral donor organizations, national SPS experts and other pertinent organizations and resource persons. In addition, a questionnaire was developed and circulated to the AUC and the RECs and the replies were used in the elaboration of this study. The consultation meetings organized by AU/IBAR and AU/IAPSC in Nairobi (October 2009) and Douala (March 2010), respectively, also offered the author two unique opportunities to meet relevant SPS officials of the AUC and the RECs and collect their input.

8. The final draft of the study was approved by the STDF Secretariat in August 2010 and subsequently submitted to the AUC.



### III. THE INTERNATIONAL CONTEXT

#### A. WTO SPS AGREEMENT

9. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) entered into force with the establishment of the WTO on 1 January 1995. The WTO has 153 Members. The SPS Agreement recognizes the right of WTO Members to take sanitary and phytosanitary (SPS) measures to protect life and health, while avoiding unnecessary barriers to trade. The Agreement requires that SPS measures be based on science, do not discriminate between Members where the same or similar conditions prevail, and are not a disguised restriction to international trade.

10. The Agreement encourages the use of international standards, guidelines and recommendations of the FAO/WHO Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE) and the International Plant Protection Convention (IPPC).<sup>1</sup> SPS measures which conform to the international standards are presumed to be consistent with the WTO rules. However, Members may use more stringent measures when they have a scientific justification, or to meet the level of protection they deem appropriate as justified by a risk assessment.

11. The Agreement supports the recognition of equivalence of SPS measures. The exporting country has the burden of demonstrating that its measures achieve the appropriate level of protection of the importing country. Likewise, Members have to ensure that their SPS measures are adapted to regional conditions, including pest- or disease-free areas, and areas of low pest or disease prevalence.

12. The Agreement includes detailed requirements regarding the publication and notification of SPS measures, as well as the establishment of appropriate transparency mechanisms.<sup>2</sup> Other relevant provisions deal with control, inspection and approval procedures, technical assistance and special and differential treatment. SPS disputes under the Agreement are governed by the WTO dispute settlement procedures. The Agreement establishes a Committee on Sanitary and Phytosanitary Measures (SPS Committee), which provides a regular forum for consultation and oversees the implementation of the Agreement by WTO Members. The Committee reaches its decisions by consensus and normally meets three times per year.

#### B. CODEX ALIMENTARIUS COMMISSION (CODEX)

13. The Codex Alimentarius Commission (Codex) was established in 1963 by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) and currently accounts for 180 Members. Codex was established to develop food standards, codes of practice, guidelines and recommendations. Many of these texts also deal with the operation and management of production processes, as well as the operation of government regulatory systems for food safety and consumer protection. The main purpose of Codex is the protection of consumers' health, ensuring fair practices in food trade, while promoting coordination of work undertaken by international food standard-setting governmental and non-governmental organizations.

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<sup>1</sup> The functional links between the ISSOs and the WTO take various forms, including mutual observership, a mechanism for surveillance of international harmonization, cooperation in capacity building activities, scientific expertise to assist in settlement of SPS-related disputes, and cooperation in the development of different implementation instruments. The trade implications of the work of the SPS Committee relate to all of these aspects and to consultations and discussions on WTO Members' trade concerns.

<sup>2</sup> Transparency is regarded as a key element to achieve a greater degree of clarity and predictability about trade policies, rules and regulations. The SPS Committee has developed and refined recommended transparency procedures (see document G/SPS/Rev.7). The Committee and the WTO Secretariat have undertaken several other transparency-related initiatives, including the publication of a step-by-step procedural transparency manual, an informal mentoring mechanism to assist officials responsible for transparency in developing country Members (see document G/SPS/W/217) as well as the SPS Information Management System (SPS IMS) (<http://spsims.wto.org/>).

14. Codex standards usually relate to product characteristics and may deal with all government-regulated characteristics appropriate to the commodity, or only one characteristic. Maximum residue limits (MRLs) for residues of pesticides or veterinary drugs in foods are examples of standards dealing with only one characteristic. There are Codex general standards for food additives and contaminants, and toxins in foods that contain both general and specific provisions. The Codex General Standard for the Labelling of Prepackaged Foods for instance covers all foods in this category. Codex methods of analysis and sampling, including those for contaminants and residues of pesticides and veterinary drugs in foods, are also considered Codex standards.

15. Codex codes of practice – including codes of hygienic practice – define the production, processing, manufacturing, transport and storage practices for individual foods, or groups of foods, that are considered essential to ensure the safety and suitability of food for consumption. For food hygiene, for example, the basic text is the Codex General Principles of Food Hygiene, which introduces the use of the Hazard Analysis and Critical Control Point (HACCP) food safety management system.

16. Codex guidelines fall into two categories: (i) principles that set out policy in certain key areas; and (ii) guidelines for the interpretation of these principles or for the interpretation of the provisions of the Codex general standards. In the cases of food additives, contaminants, food hygiene and meat hygiene, the basic principles governing the regulation of these matters are built into the relevant standards and codes of practice. There are also free-standing Codex principles covering, among others, issues such as food import and export inspection and certification, and risk analysis of foods derived from modern biotechnology.

17. The largest number of specific Codex standards is the group called "commodity standards". These standards tend to follow a fixed format set out comprehensively in the Codex Procedural Manual.

18. The FAO has developed guidelines and a complementary Quick Guide to assess capacity building needs in national food control systems. The two tools are targeted at officials in national authorities who are responsible for various aspects of food control systems at the policy and/or operational level, as well as external organizations and consultants involved food safety capacity building activities. The WHO is currently developing a trade and health diagnostic tool to assist WHO members to understand the implications of international trade agreements for health.<sup>3</sup>

#### C. WORLD ORGANIZATION FOR ANIMAL HEALTH (OIE)

19. The International Office of Epizootics (OIE) was created in 1924, in response to the need to address animal diseases at the global level. In 2003, it became the World Organisation for Animal Health, keeping the original acronym. It currently has 175 Members. The OIE's main objectives are to: (i) ensure transparency in the global animal disease and zoonosis situation; (ii) collect, analyze and disseminate scientific veterinary information; (iii) provide expertise and encourage international solidarity in the control of animal diseases; (iv) improve the legal framework and resources of national veterinary services of its Members; (v) safeguard world trade by publishing health standards for international trade in animals and animal products; and (vi) provide a better guarantee of the safety of food of animal origin, and to promote animal welfare, through a science-based approach.

20. The World Assembly of Delegates is OIE's highest authority. It is composed of all Members, represented by delegates (usually the Chief Veterinary Officer of country members) and meets annually. The Assembly adopts international standards in the field of animal health, especially for international trade, and adopts resolutions on the control of the major animal diseases. The Council represents the Assembly during the interval of the Assembly meetings. Five Regional Commissions

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<sup>3</sup> The STDF has issued a publication providing an overview of the tools developed by the ISSOs which can be found at: [http://www.standardsfacility.org/files/various/STDF\\_Capacity\\_Evaluation\\_Tools\\_Eng\\_.pdf](http://www.standardsfacility.org/files/various/STDF_Capacity_Evaluation_Tools_Eng_.pdf)

(including Africa, covering 51 countries) study specific problems encountered by Veterinary Services and organize cooperation activities at regional level.

21. At the heart of OIE's standards development system are its Specialist Commissions, which use current scientific information to study problems of epidemiology and the prevention and control of animal diseases, to develop and revise international standards and to address scientific and technical issues raised by Members. There are four Specialist Commissions: (i) the Terrestrial Animal Health Standards Commission (Terrestrial Code Commission); (ii) the Scientific Commission for Animal Diseases (Scientific Commission); (iii) the Biological Standards Commission (Laboratories Commission); and (iv) the Aquatic Animal Health Standards Commission (Aquatic Animals Commission).

22. Recognizing the importance of national veterinary services, the OIE, in collaboration with the Inter-American Institute for Cooperation on Agriculture (IICA), developed a Tool for the Evaluation of Performance Veterinary Services (PVS tool). The PVS is designed to assist veterinary services to establish their current level of performance, to identify gaps and weaknesses in their ability to comply with OIE standards, to form a shared vision with stakeholders (including the private sector) and to establish priorities and carry out strategic initiatives. The instrument has proven to be extremely useful in the identification of veterinary services needs, notably in Africa, providing a sound basis for technical cooperation initiatives in this field.

#### D. INTERNATIONAL PLANT PROTECTION CONVENTION (IPPC)

23. The IPPC is an international plant health agreement, established in 1952, that aims to protect cultivated and wild plants by preventing the introduction and spread of pests. Boosted by the negotiations of the WTO SPS Agreement, an IPPC Secretariat was established in 1992 and, in 1997, the 29th FAO Conference adopted the New Revised Text of the IPPC, which came into force in 2005. The IPPC currently has 173 signatories and provides an international framework for plant protection that includes the development of International Standards for Phytosanitary Measures (ISPMs) for safeguarding plant resources.

24. The IPPC also provides information related to import and export requirements, pest status and regulated pest lists provided by each member country. Although the IPPC's primary focus is on plants and plant products moving in international trade, it also covers other issues such as research materials, biological control organisms, and anything else that can act as a vector for the spread of plant pests (e.g. containers, packaging materials, soil, vehicles, vessels and machinery).

25. Contracting parties to the IPPC agree to promote technical assistance to other contracting parties. The Convention encourages support to developing countries to improve the effectiveness of their National Plant Protection Organizations (NPPOs) and to participate in regional plant protection organizations (RPPOs), to help them realize the benefits of safe trade.

26. The IPPC is governed by the Commission on Phytosanitary Measures (CPM), which meets annually and promotes cooperation and assists countries in implementing the objectives of the IPPC. Among its responsibilities, the CPM reviews the state of plant protection around the world, identifies actions to control the spread of pests into new areas, and develops and adopts ISPMs.

27. The CPM Bureau, a seven-member elected executive body, is the decision-making body between the CPM sessions. It provides guidance on strategic direction, cooperation, financial and operational management. An informal working group, the Strategic Planning and Technical Assistance (SPTA) assists the CPM in planning and prioritizing its work programme.

28. The IPPC Secretariat coordinates the IPPC work programme, including the development of ISPMs, the provision of information, the facilitation of information exchange, and the provision of technical assistance and capacity building. The IPPC system also includes nine Regional Plant

Protection Organizations – including the African Union Inter-African Phytosanitary Council (IAPSC) - which are inter-governmental organizations functioning as coordinating bodies for the NPPOs at regional level.

29. The IPPC has developed a Phytosanitary Capacity Evaluation Tool (PCE Tool) to assist countries to undertake a needs assessment of their phytosanitary capacity, as the basis for planning capacity building. The primary focus is to examine the capacity of NPPOs in relation to their implementation of ISPMs and their rights and responsibilities in the IPPC.

#### **IV. REGIONAL SPS POLICY FRAMEWORKS**

##### **A. AFRICAN UNION COMMISSION (AUC)**

30. The African Union Commission (AUC) has not yet developed an SPS policy framework. However, the establishment of a consultative process to develop and adopt a "draft legal framework" is part of the background and rationale of the current study (see Chapter I). Interestingly, this draft framework "should be general enough to allow RECs to develop detailed frameworks". Presumably, therefore, this overarching legal framework would have to consider the existence of at least seven regional SPS frameworks as identified below (already entered into force or in their final stages of preparation). Additionally, the development of a general framework would have to take into account the central role of the SPS Agreement and the standard-setting activities of Codex, OIE and IPPC. In other words, before this work is undertaken, the purpose and value added of such an overarching legal framework at continental level should be carefully analyzed.

31. The Department of Rural Economy and Agriculture (DREA) of the AUC is committed to promote agricultural development and contribute to economic development in Africa, particularly in rural areas, in line with its 2009-2012 Strategic Plan. It is also responsible for SPS issues. DREA encourages efforts to improve food safety in Africa through inspections of food production establishments using a harmonized approach. Animal and plant health issues are the responsibility of AUC's technical offices, the African Union Inter-African Bureau for Animal Resources (AU/IBAR), based in Nairobi, and the African Union Inter-African Phytosanitary Council (AU/IAPSC), based in Yaoundé, respectively.

32. DREA has identified several SPS-related priority needs in Africa including: (i) inadequate technical capacity and limited resources of African countries to be adequately involved in the development and application of standards and scientific justification of SPS measures; and (ii) insufficient coordination at the national level among the relevant ministries, agencies and institutions - including diagnostic and food safety laboratories - dealing with SPS issues.<sup>4</sup>

33. The challenge for the AUC is to assist Member States and RECs to overcome these difficulties and strengthen their capacity to effectively and actively participate in standard-setting activities. In this regard, the AUC recognizes that constraints regarding limited access to information, trained personnel and infrastructure to accelerate the flow of information need to be addressed. Likewise, it will be necessary to harness political commitment and determination for adequate coordination, common positions and budgets.

34. The AUC views that a food chain holistic approach involving producers, extension services, importers and exporters, and the private sector is necessary. Its strategy to address these issues comprehends regional programme approaches in cooperation with the RECs (the "building blocks" of the AUC), as well as external donor agencies. In particular, the AUC is currently involved in the implementation of the EU-funded "PAN-SPSO" (Participation of African Nations in Sanitary and Phytosanitary Standards-Setting Organizations) and "BTSF" (Better Training for Safer Food)

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<sup>4</sup> Dr. Sarah Olembo (DREA Senior Policy Officer) address to the 5<sup>th</sup> East African Phytosanitary Information Committee (EAPIC) Workshop, March 2009.

programmes, aimed at building capacities and improving infrastructure for SPS in agricultural health and food safety. Reportedly, a project aimed at establishing Centers of Excellence to diagnose, identify and monitor infectious diseases is under preparation.

35. AU/IAPSC is DREA's technical office in charge of plant protection activities. It is one of the nine RPPOs of the IPPC. In charge of the whole African continent, AU/IAPSC works in collaboration with the official National Plant Protection Organizations (NPPOs) of the 53 Member States of the African Union. AU/IAPSC largely implements its activities with the assistance of the RECs. Among the core functions of AU/IAPSC are the prevention of the introduction of crop pests and diseases into Africa, the control and/or eradication of endemic pests, as well as strengthening Member States to comply with the requirements of the SPS Agreement.

36. AU/IAPSC's strategic objectives, as defined in its Departmental Strategic Plan (2009-2012), include: (i) the development and management of information to serve African and International Plant Protection Organizations; (ii) the harmonization of phytosanitary legislation and regulations in Africa; (iii) the development of regional strategies against the introduction and spread of plant pests; (iv) training of officials of NPPO staff in Pest Risk Analysis (PRA), phytosanitary inspection and treatment, field inspection and certification, laboratory diagnoses, pest surveillance and monitoring; (v) the promotion of the adoption of ISPMs, ratification of the SPS Agreement by African countries and strengthening the reputation of AU/IAPSC within the 53 Member States of the African Union, the IPPC and other international organizations.

37. AU/IAPSC has identified eight key performances areas. In the phytopathology area these encompass the protection of plants, including invasive alien plants and plant products, phytosanitary standards and trade, plant quarantine in Africa, phytosanitary measures – WTO and trade barriers, and pesticides. Under the Entomology Section these include the fight against plant pests, transboundary pests and dissemination of phytosanitary information. For each area, specific plans of action, including strategic goals, expected results, performance indicators and budget estimates were conceived. Some of the actions plans are expected to be pursued with support of external donors. AU/IAPSC is currently working on the development of a phytosanitary capacity building strategy for Africa with seed funding from the STDF.

38. AU/IBAR is DREA's technical office in charge of animal health issues. AU/IBAR dates back to the colonial period and was incorporated in the Organization of the African Union (OAU) in 1965. It was involved in some large projects in the past but had limited intervention capacity and projects were donor-oriented.<sup>5</sup> The organization was recently re-organized and published an ambitious Strategic Plan for 2010-2014. This Plan "...marks a paradigm shift for the Bureau and brings with it a commitment that an energetic, innovative and collaborative AU/IBAR will emerge from this endeavor...".<sup>6</sup> Decided to "... provide leadership in the development of animal resources for Africa through supporting and empowering AU Member States and Regional Economic Communities...", and "...developing and promoting common African positions within the global animal resources arena...", AU/IBAR identified six "interconnected and complementary" strategic areas, referred to as "programmes".

39. The programmes identified are: (i) reducing the impact of transboundary animal diseases and zoonoses on livelihoods and public health in Africa; (ii) enhancing Africa's capacity to conserve and sustainably use its animal resources and their natural resource base; (iii) improving investment opportunities and competitiveness of animal resources in Africa; (iv) promoting development of, and compliance with, standards and regulations; (v) improving knowledge management in animal

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<sup>5</sup> See "The Role of IGAD in Shaping Livestock Policy in the Horn of Africa: Understanding the International System, International Actors and Implications for Reform", Wilson Prichard, David K. Leonard, Institute of Development Studies (Sussex), IGAD LPI Working Paper No.12-08.

<sup>6</sup> AU/IBAR Strategic Plan (2010-2014), December 2009, Nairobi.

resources to facilitate informed and timely decision-making; and (vi) facilitating development of policies and institutional capacities for improved utilization of animal resources in Africa.

40. An important element of AU/IBAR's new strategy is to improve internal and external communication with key clients, RECs and Member States. Sound monitoring and effective interaction of programmes is expected to avoid duplication of efforts. AU/IBAR identified six strategic functions (technology generation; knowledge management; convening and advocacy; policy development; capacity building; and emergency intervention in crisis situations), as well as an indicative list of organizations it is likely to partner with in the performance of each of these functions. AU/IBAR recognizes that its new high level of ambition will have a cost and aims at securing an estimated budget of around US\$ 40 million per year over the next five years (2010-2014), corresponding to the six programmes identified.

## B. REGIONAL ECONOMIC COMMUNITIES (RECS)

41. This section of the report analyzes the various existing and planned regional SPS policy frameworks at the level of the RECs, notably in light of the WTO SPS Agreement. An overview of country membership in the RECs and the WTO, and of the RECs' position in the WTO SPS Committee and ISSOs is provided in Annex 4. It also summarizes the respective RECs' SPS strategies and/or action plans, where available and appropriate. The following five existing and/or planned SPS policy frameworks were identified:

- **Common Market for Eastern and Southern Africa (COMESA)** (Draft Regulations on the Application of Sanitary and Phytosanitary Measures – Annex IV, May 2009).
- **East African Community (EAC)** (Final Draft of the Protocol on Sanitary and Phytosanitary Measures for the East African Community – Annex III, May 2009).
- **Southern African Development Community (SADC)** (Sanitary and Phytosanitary (SPS) Annex to the SADC Protocol on Trade, 12 July 2008).
- **West African Economic and Monetary Union (WAEMU)** («Règlement N°7/2007/CM/UEMOA Relatif à la Sécurité Sanitaire des Végétaux, des Animaux et des Aliments dans l'UEMOA»).
- **Economic Community Of West African States (ECOWAS)** (Regulation C/REG...06/09 on the Harmonization of the Structural Framework and Operational Rules Pertaining to the Health Safety of Plant, Animals and Foods in the ECOWAS Region).

42. With regard to the other RECs included in the scope of this study, the Intergovernmental Authority on Development (IGAD) indicated in the questionnaire that it intends to develop an SPS framework within the next five years. However, the author observed that on 10 December 2009 a Regional Policy Framework on Animal Health in the Context of Trade and Vulnerability of the Member States of IGAD was signed in Djibouti.<sup>7</sup>

43. The Community of Sahel-Saharan States (CEN-SAD) indicated that an SPS framework will be developed after the adoption of the region's free trade zone. As part of ongoing work on trade facilitation, the Economic Community of Central African States (ECCAS) intends to develop common phytosanitary regulations for the region. This process is at an early stages and an inventory of the current situation was recently made by an FAO consultant. A regional workshop on this topic is planned in June 2010.<sup>8</sup> No information was received from the Maghreb Arab Union (MAU) and the author was unable to collect information.

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<sup>7</sup> The text of the framework can be found in Annex 2 of "IGAD Livestock Policy Initiative, 2009 Annual Report, 5th January 2010".

<sup>8</sup> « Rapport de synthèse : État des lieux des capacités de contrôle phytosanitaire dans les pays d'Afrique Centrale : CEEAC – CEMAC », Dr. Nazaire Nkouka, consultant international FAO, mars 2010.

44. At the outset, it should generally be noted that the founding texts (Regional Treaties) of all RECs outline general objectives, e.g. "the achievement of food security and rational agricultural production" or "to ensure food availability, access, safety and nutritional value". The regional SPS policy frameworks further define these overall objectives.

45. All regional SPS policy frameworks in this study refer to the SPS Agreement, recognizing implicitly or explicitly that countries have rights and obligations under this Agreement. However, the frameworks then take different approaches. They appear to be of a different nature, depending on where they come from and what their objectives are. Two frameworks (COMESA and SADC) are "umbrella" type frameworks. EAC also developed an "umbrella" framework as well as separate standards for the region.

46. WAEMU developed a framework ("Règlement") relating to food safety and the protection of animal and plant health and life, composed of general principles ("Dispositions Générales") with a content similar to an "umbrella" framework, but with relatively detailed technicalities and procedures. WAEMU developed two additional regulations.<sup>9</sup> The draft framework being developed by ECOWAS is - by and large - a translation of WAEMU's framework. This would seem to make sense taking into account that all WAEMU member states are also members of ECOWAS. That being said, the current draft version of the ECOWAS framework does show some discrepancies with WAEMU's framework (and also with the SPS Agreement).

47. The analysis of the existing and planned regional SPS policy frameworks below is not exhaustive and is concentrated notably on some discrepancies with the SPS Agreement which may hinder, confuse or unnecessarily duplicate, the rights and obligations of RECs' member states in the context of the WTO. The impact(s) of other provisions of these frameworks which go beyond the SPS Agreement and are different in nature are dealt with in Chapter V (strengths and opportunities). Several of these provisions seem to address practical "hands on" implementation aspects, such as COMESA's Green Pass (CGP).

48. Although the situation varies considerably from one REC to another, most RECs do not have clear and comprehensive SPS strategies and/or action plans in place. Most RECs lack visibility, both at the level of their member states and internationally. They are seriously hampered by human, technical and financial resource limitations and their capacity in the SPS area often depends on international partnerships and cooperation programmes.

49. The author is aware that the RECs, and in particular their member states, may be involved in several other SPS activities than the activities mentioned below. The author may not have captured all these activities, due to the limitations of the methodology used (see Chapter II) and the fact that SPS-related information on the websites of RECs is generally scarce. Replies to the questionnaires were in most cases succinct at best. The sections below should be seen in this context.

(a) Common Market for Eastern and Southern Africa (COMESA)

SPS policy framework

50. Reportedly, the COMESA Council of Ministers would have adopted a final version of the SPS Regulations on 7 December 2009. Comments in this report, however, relate to the last draft version made available to the author by COMESA on 27 November 2009 (CS/LEG/DMJAG/XIII/3, May 2009).

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<sup>9</sup> The WAEMU published two additional regulations: «Règlement N°3/2009/CM/UEMOA Portant sur l' Harmonisation des Règles Régissant le Contrôle de Qualité, la Certification et la Commercialisation des Semences Végétales et Plants dans l'UEMOA» ; «Règlement N°4/2009/CM/UEMOA Relatif à l'Harmonisation des Règles Régissant l'Homologation, la Commercialisation et le Contrôle des Pesticides au sein de l'UEMOA».

51. The similarities of COMESA's draft SPS Regulations' (COMESA Regulations) with the SPS Agreement are evident, both in format and content. However, the COMESA Regulations go beyond the SPS Agreement including practical and "hands on" provisions for instance regarding the establishment of a certification scheme (the aforementioned "Green Pass"), regional accreditation bodies and reference laboratories. The COMESA Regulations recognize the right of Member States to take SPS measures to protect life and health, while avoiding arbitrary or unjustified barriers to trade (as in the SPS Agreement). They require that SPS measures are based on science, not maintained without sufficient scientific evidence, and do not result in disguised restrictions on regional or international trade.

52. However, a more detailed analysis of the COMESA Regulations reveals a number of differences which may constitute areas of possible conflict with the SPS Agreement. In most cases, this is due to partial use of the text of the SPS Agreement out of its context and completed with a different set of words, which modifies the letter and the meaning (not to mention the spirit) of the SPS Agreement.

53. The following is an illustrative - non-exhaustive - list of some of the observed discrepancies (the provisions refer to the COMESA Regulations):

- Preamble, Para.4: The SPS Agreement only recognizes as international standard setting organizations Codex, OIE and IPPC. It leaves the identification of other relevant organizations to the discretion of the WTO SPS Committee. The end of COMESA's text makes reference to "... any other organization relevant to SPS matters". By eliminating the reference to the WTO SPS Committee, this deviation carries the potential to limit WTO Members' rights and obligations under the SPS Agreement.
- Article 3(b): This article deals with the objectives of the COMESA Regulations and elaborates on the definition of SPS measures. The definition is an almost word-by-word copy of the SPS Agreement's definition of an SPS measure. However, while explicitly including different words to address the protection of the socio-economic structures and institutions, it excludes the protection of the *territory* of the [WTO] Member, as it appears in the text of the SPS Agreement, thus weakening the protection.
- Article 5, Para 4: This article is a re-writing of Article 5.7 of the SPS Agreement.<sup>10</sup> Article 5.7 of the SPS Agreement, a very carefully negotiated and crafted text, deals with the use of precaution when *scientific evidence* is insufficient. COMESA's text eliminates the notion of "*relevant scientific*" from the evidence required to invoke the use of precaution. As it stands, COMESA's text does not appear to add anything to Article 5.7 of the SPS Agreement - but may dangerously undermine WTO rights and obligations of member states.
- Article 6, Para 1: This provision raises significant concerns. By enumerating some articles of the SPS Agreement while excluding others (including its Article 2 on Basic Rights and Obligations), the first paragraph of Article 6 of the Regulations suggests that those COMESA Member States which are also Members of the WTO do not have to comply with the other articles of the SPS Agreement. All WTO Members must fully comply with the SPS Agreement, except as otherwise provided the Agreement .

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<sup>10</sup> Article 5.7 of the SPS Agreement states: "*In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.*"



- Article 16: This provision deals with consultations and dispute settlement. There is no reference to the WTO Dispute Settlement Procedures, which are binding on all WTO Members. The right of COMESA Member States, which are also WTO Members, to revert to the WTO procedures to resolve their trade problems, if they so decide, should be fully preserved, and not weakened.

#### SPS strategy and/or action plan

54. Part of COMESA's strategy is implementation of the COMESA Regulations through the Green Pass Certification system (CGP). According to COMESA, the CGP "will be a retainer and commodity based system, based on regionally agreed standards and requirements for the commodity in question. In compliance with this certification system, Member States will then be obliged to satisfy the requirements of the SPS Agreement and COMESA Regulations". COMESA adds that "although the strategy does not directly involve other RECs, it takes into account the SPS measures related to trade with other countries. Other partners will also be involved through capacity building activities". A related action plan is currently under development. COMESA also indicates that it "shares and harmonizes its own activities with the EAC, IGAD and SADC through the Interregional Coordinating Committee (IRCC)". (....)

55. COMESA cooperates with several international organizations, including UN, FAO, WTO, EU, USAID, DFID, NORAD, AfDB, World Bank, UNIDO and the Commonwealth Secretariat. It has observer status in the IPPC, but according to available information it is not an observer of CODEX, OIE or the WTO SPS Committee (see Annex 4).

56. Reportedly, COMESA has carried out a series of training sessions for senior SPS experts, laboratory specialists and middle level technicians from Member States on various topics including WTO, SPS, quality management and quality assurance, surveillance, emergency preparedness, traceability and certification. It has also developed training material and provides support to Member States' participation in ISSOs through training and the formulation of common positions.

57. The "Agricultural Marketing Promotion and Regional Integration Project" (AMPRIP) is a COMESA project implemented in collaboration with the New Partnership for Africa's Development (NEPAD) and the African Union (AU). It covers agricultural marketing and the improvement of SPS measures, the advancement of food safety harmonization and strengthening of SPS institutions. Under this project, three regional SPS laboratories were identified and (re)equipped (in Zambia for animal health, in Mauritius for food security and in Kenya for plant protection). The project is supported by the African Development Bank (AfDB) and was scheduled for completion in December 2009.

#### (b) East African Community (EAC)

##### SPS policy framework

58. The author was provided with the final draft of the EAC SPS Protocol attached to the report of the 3rd Meeting of Experts on the Development of the Protocol. While this framework is of the "umbrella" type, EAC is also developing separate standards for the region.<sup>11</sup> In general, the EAC SPS Protocol has thoroughly used the definitions of the SPS Agreement but also added a few more. Interestingly, the only significant difference observed was the replacement of the word "contaminants" in the definition of international standards, guidelines and recommendations established by Codex (as it appears in the SPS Agreement) by the more restrictive words "heavy metals".

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<sup>11</sup> The Harmonized Sanitary and Phytosanitary standards, measures and procedures for Phytosanitary (Volume I); for mammals, birds and bees (Volume II); and for fish and fishery products (Volume III).

59. The following is an illustrative - non-exhaustive - list of some other observed discrepancies (the provisions refer to EAC SPS Protocol):

- Article 4: Several paragraphs of this article enumerate what may well be a repetition of work done in the SPS Committee, notably in relation to transparency, recognition of equivalence, application of the "principles of regionalization" (a concept not defined in the Protocol but which presumably refers to the "adaptation to regional conditions, including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence", a concept defined in the Protocol).<sup>12</sup>
- Article 7: The article states that "Partner States agree to comply with the provisions of the WTO SPS Agreement and *shall develop rules and procedures in accordance with international standards*" (emphasis added). As noted with regard to a similar provision in the SADC SPS Annex (see below), the WTO SPS Committee has developed guidelines on equivalence.
- Article 9, para. 4 and 5: Taking into account the language of paragraph 6 of the preamble and references to the WTO SPS Agreement, paragraph 4 seems superfluous. Paragraph 5 refers to the use of "equivalent risk assessment techniques". A definition of this concept would be useful.
- Article 10: This article deals with transparency. Paragraph 1 states: "Partner States agree to comply with the provisions of the WTO SPS Agreement with regards to Transparency". However, ensuing paragraphs duplicate some of the SPS Agreement transparency requirements and, more importantly, impose on Partner States additional more demanding – and perhaps even misleading - requirements.
- Article 11: This article deals with Control, Inspection, Certification and Approval Procedures and is a re-drafting of Annex C the SPS Agreement. Because it deviates from the text of the SPS Agreement, it should make reference to the fact that Partner States agree to comply with the relevant provisions of the SPS Agreement, as it does in many other articles.

60. EAC's SPS Protocol contains several other provisions which more or less replicate the SPS Agreement provisions, or contain some of their elements. In some cases, the "re-drafting" of such provisions, or the use of SPS Agreement language out of its context, may result in possibly confusing texts (e.g. Article 14 dealing with Dispute Settlement).

#### SPS strategy and/or action plan

61. The EAC Secretariat did not provide a reply to the questionnaire. However, the "Agriculture and Rural Development Strategy for the East African Community (2005-2030) points to a "strategy [which] will address issues of food insecurity and poverty in the region through improvement in agricultural production and farm incomes to ensure availability and access to food to all households (...)". Strategic interventions for the acceleration of agricultural sector development are identified. One of those interventions aims at increasing intra- and inter-regional trade.

62. The document recognizes the "prevalence of pests and diseases and poor infrastructure" and identifies a number of strategic interventions including: (i) the delineation of disease and pest free zones; (ii) the development of joint control programmes; (iii) the adoption of standards on sanitary and phytosanitary, farm inputs, inspection and certification procedures; (iv) the harmonization of policies, legislations and development of common procedures; (v) the establishment of Regional Zoo-sanitary and Phytosanitary reference laboratories for diagnosis of pests and diseases; and (vi) the development and harmonization of regional standards in conformity with international standards.

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<sup>12</sup> In this respect, see also WTO document G/SPS/48.

63. The focus of EAC's strategy until now appears to have been on efforts to harmonize SPS measures and common instruments through various technical working groups. It is not known to what extent these instruments are used and implemented by Partner States. EAC has also been involved in the development of the Free Trade Area (FTA) with COMESA and SADC. As far as the author could identify, EAC is not an observer to any of the ISSOs, or the WTO SPS Committee (see Annex 4).

64. In response to the occurrence of transboundary animal diseases, EAC established a Regional Steering Committee on Transboundary Animal Diseases.<sup>13</sup> This committee is composed of the Partner States' departments of veterinary services, medical services, wildlife services and animal production services. Other key stakeholders, including AU/IBAR, FAO, USAID, GTZ, ILRI etc., cooperate in disease control in the EAC region.

(c) Intergovernmental Authority on Development (IGAD)

SPS policy framework

65. As mentioned above, IGAD Member States have signed a Regional Policy Framework on Animal Health in the Context of Trade and Vulnerability in December 2009. This framework is based on the following premises: (i) Member States face common challenges that require a coordinated response at different levels; (ii) Member States operate within a network of global institutions that set international standards for animal health, food safety and international trade; and (iii) the influence of Member States on the development of international rules and standards would be enhanced by a regional coordinated approach. The framework recognizes that the IGAD Secretariat can play this coordinating role and assist in the development of regional capacity to address animal health challenges at the national level.

66. Contrary to some other SPS policy frameworks, this instrument does not cause particular concerns in light of WTO Members' rights and obligations under the SPS Agreement. Its only implicit reference to the SPS Agreement is contained in Article 2, para.1(c), which states: "Member States recognize that the use of sanitary standards for trade-related purposes is regulated by the WTO". This indicates sufficiently clear and strong that IGAD Member States who are also Members of the WTO have to abide by the SPS Agreement. Interestingly, in Article 2, para. 2(b) it is stated that Member States "(...) encourage and support the accession to the WTO of those IGAD member States that have yet to join the trading system (...)".

67. The IGAD framework takes a rather practical approach, making adequate references to existing international standards or guidelines developed by ISSOs. For instance, Article 1, para. 2(k) stipulates: "(...)Member States accordingly agree to launch a process of harmonization of livestock policies and regulations at the IGAD level, with a view to addressing their common challenges in a coordinated manner with the assistance of the IGAD Secretariat. More specifically, Member States agree to: (...) develop regional standards and guidelines for animal welfare based on relevant OIE instruments under the facilitation of IGAD (...)". Article 3, para.2 states that: "(...)in order to enhance the regional capacity to assist national compliance with international standards, Member States agree to: (...) (g) ensure regional standards are based on relevant OIE and Codex standards and serve to facilitate trade (...)".

68. The IGAD framework recognizes the importance of the private sector ("(...) private sector actors have an important role to play in the delivery of: (i) private goods; and (ii) public goods through sanitary mandates and public-private partnerships which permit government to perform its functions of regulation and quality control". Member States agree to develop a "(...)regional framework to define, enhance and enable the respective roles of private and public sector actors in the

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<sup>13</sup> The region has recorded occurrences of a number of transboundary and OIE notifiable animal diseases - including FMD, PPR, LSD, CBPP, RVF, etc.

supply of animal health and related services, encouraging collaboration where appropriate". Finally, the IGAD framework provides a number of institutional provisions which specifically address the responsibilities of IGAD's Secretariat. These include the establishment of a Livestock Unit which duties and responsibilities should include the coordination of the relations with relevant technical institutions in the field of livestock, including AU/IBAR, FAO, OIE and Codex.

#### SPS strategy and/or plan of action

69. IGAD views its role with regard to SPS issues in four main areas: (i) harmonization of SPS standards and measures/policies of Member States; (ii) facilitation of information exchange among Member States; (iii) provision of capacity building; and (iv) conducting studies and research on relevant SPS issues. The capacity of IGAD's Secretariat, however, to implement this role is limited. Only one staff member currently works on SPS issues on an ad-hoc basis. As a consequence, IGAD develops its actions in cooperation with other RECs, especially EAC and COMESA, as well as AU/IBAR. Instrumental to its functioning, including in the SPS area, is the IGAD Partners Forum (IPF), with a large membership of developed countries and international organizations. The IPF has three levels of partnership, at ministerial, ambassadorial and technical level.

70. An important element of IGAD's strategy is its Livestock Information Portal (LIP), a web-based gateway information management system "to provide IGAD Member States and stakeholders in the livestock industry with comprehensive information to strengthen the sector". The aim of this portal, developed in cooperation with FAO and the EU, is to harness the vast amounts of information in the IGAD region scattered across multiple sites, ministries and organizations.<sup>14</sup> IGAD has no observer status in the ISSOs or the WTO SPS Committee. It is currently involved in the implementation of the EU-funded PAN-SPSO project.

71. IGAD's adoption of the Regional Policy Framework on Animal Health in December 2009 reflects the recognition that the livestock economy in the region has been repeatedly affected by transboundary animal diseases - causing high mortality, production losses and export trade restrictions. The framework recognizes that "harmonization of national livestock policies at the IGAD level is indispensable in order to establish effective and sustainable mechanisms of dealing with these challenges". In signing the Regional Policy Framework, Member States agreed to launch a process of harmonization of livestock policies and regulations at IGAD level, with a view to addressing common challenges in a coordinated manner with the assistance of the IGAD Secretariat.

#### (d) Southern African Development Community (SADC)

##### SPS policy framework

72. SADC has developed the SPS Annex to the SADC Protocol on Trade (SPS Annex). This Annex was approved by the SADC Ministers of Trade and Industry, jointly with the TBT Annex, in 2008. The SPS Annex is a policy framework which - despite similarities with the SPS Agreement (often using exactly the same words, especially as far as some definitions are concerned) - goes beyond the Agreement in some instances.

73. The following is an illustrative - non-exhaustive - list of some of the observed discrepancies (the provisions refer to SADC SPS Annex):

- Preamble, para.5: This paragraph reflects the words of the SADC Protocol on Trade which addresses exclusively the issue of international standards - "Member States shall base their SPS measures on international standards" - and the issue of recognition of equivalence of SPS measures - "...in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures". This formulation in the SADC Protocol on Trade seems to have

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<sup>14</sup> See <http://ergodata.zoo.ox.ac.uk/igadwebv2/>.

been interpreted in a restrictive manner in the drafting of the SPS Annex. A careful reading of the Annex shows that key notions of the SPS Agreement, such as non-discrimination, non-arbitrariness, disguised restrictions on trade, to mention a few, are not at all addressed.

74. The first paragraph of Article 5 of the SPS Annex (Basic Rights and Obligations) reads as follows: "Member States affirm their existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures". However:

- Article 1, para.8: This paragraph deals with relevant international standards, guidelines and recommendations and simply cuts and pastes from the SPS Agreement, with one exception. Whereas, as mentioned above, the SPS Agreement leaves the identification of other (standard-setting) relevant organizations to the discretion of the WTO SPS Committee, the SPS Annex replaces the WTO SPS Committee by the SADC Coordinating Committee on Sanitary and Phytosanitary Measures. This change carries the potential to limit WTO Members rights and obligations under the SPS Agreement.
- Article 4, para.2: This paragraph is difficult to understand, especially in light of article 3 of the SPS Annex, which states that "[T]his annex applies to all sanitary and phytosanitary measures of a Member State that may, directly or indirectly, affect trade between the Member States" (emphasis added). Which are these measures "... not within the scope of this Annex" mentioned in Article 4, para.2, if article 3 refers to *all* SPS measures?
- Article 7, para.1: This paragraph makes reference to "...guidelines to be developed by the SADC SPS Coordinating Committee...". It is worth noting that the WTO SPS Committee has developed guidelines on equivalence.<sup>15</sup>
- Article 8, para.3: The last sentence of paragraph 3 of this article is a re-writing of Article 5.7 of the SPS Agreement. Article 5.7 of the SPS Agreement is, as noted above, a very carefully negotiated and crafted text and states that - when adopting provisional SPS measures when scientific evidence is insufficient "... Members shall *seek to obtain the additional information* necessary for a more objective assessment of risk...". The SPS Annex seems to invert the burden of proof when replacing these words by "...The Member State shall (...) after information sufficient to complete the assessment *is presented to it*, complete its assessment...". This wording suggests that the Member imposing the measure can simply leave it in place and do nothing to gather new information, i.e. the opposite of Article 5.7 in the SPS Agreement.
- Article 10 and Appendix A: SPS Annex requirements on transparency appear to be confusing and unnecessarily duplicate the SPS Agreement requirements. These may eventually lead to the multiplication of unnecessary administrative layers and bodies.
- Article 13: This Article refers to dispute settlement. However, there is no reference to the WTO Dispute Settlement Procedures, which are binding on all WTO Members. The right of SADC Member States who are also WTO Members to revert to the WTO procedures to resolve their trade problems should be fully preserved, and not weakened.

#### SPS strategy and/or plan of action

75. The SADC strategy is based on strengthening harmonization with the objective of facilitating trade, and promoting food safety in the region. In its response to the questionnaire, SADC noted that the "broad expectation is that Member States will comply with the provisions of the SPS Annex and form the necessary national institutions that will feed into the regional SPS coordinating body".

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<sup>15</sup> See WTO document G/SPS/19/Rev.2.

However, SADC acknowledges the different level of development and technical capacity of its Member States and considers that its role is to assemble the adequate know-how to support the individual efforts of countries. An illustration of SADC's ongoing efforts with regard to harmonization is an EU-funded project entitled: "Food Safety - Capacity Building in Residue Control" (FSCBRC). This project aims to harmonize food safety control regulations, guidelines and procedures through institutional strengthening in the SADC region in conformity with international requirements - in order to increase exports while complying with consumer safety requirements.<sup>16</sup>

76. SADC's policy framework emphasizes the use of international standards and the organization's active participation in the ISSOs. SADC is an observer to Codex, OIE and IPPC. On March 2010, it became an observer to the WTO SPS Committee, along with ECOWAS and CEN-SAD.<sup>17</sup> SADC also cooperates with several other regional bodies, including AU/IBAR, and is involved in the implementation of the PAN-SPSO project.

77. Rather than developing regional standards, SADC's efforts to reinforce harmonization include the development of regional guidelines to help Member States to implement international standards in a practical manner. Reportedly, three such guidelines have already been developed. Regional technical committees meet prior to the meetings of the ISSOs to discuss common issues. Another important aspect of SADC's approach relates to the operation of SADC Cooperation in Standardization (SADCSTAN) which aims to promote the coordination between SPS and TBT in relation to standardization activities and services with the purpose of achieving harmonization of standards and technical regulations in the region.

78. In its reply to the questionnaire, SADC stressed that no SPS action plan has been elaborated so far. SADC's organizational units (trade, standards, crop protection, and animal health) ensure coverage of SPS requirements whenever necessary. That being said, the development of a comprehensive strategy and action plan to help Member States to implement the SPS Annex is currently envisaged.<sup>18</sup>

79. In cooperation with several partners, SADC launched several capacity building activities that relate to SPS matters in the region. In addition to the Food Safety Capacity Building on Residue Control (FSCBRC) project, mentioned above, they include *inter alia*: (i) development of a SADC Harmonized Seed Regulatory System including a seed certification and quality assurance system aiming at reducing costs and the facilitation of seed trade; (ii) publication of a "Field Handbook on Pests and Diseases of Phytosanitary Importance in the SADC region for distribution to SPS officers at border posts; (iii) Foot and Mouth Disease (FMD) project to prevent the spread of this disease; (iv) Transboundary Animal Diseases (TADs) project aiming at strengthening institutions for risk management of Transboundary Animal Diseases in the SADC region; (v) Promotion of Regional Integration in the SADC Livestock Sector (PRINT) project, which attempts to "lay down a sustainable basis for a coherent regional approach to the development of the livestock sector in the SADC region". Finally, in its reply to the questionnaire, SADC indicated that SPS training is covered under EU-funded projects on Standardization, Quality Assurance, Accreditation and Metrology (SQAM), on food safety and, to a lesser extent, the PAN-SPSO project.

80. The Secretariats of SADC, COMESA and EAC are working jointly to prepare legal documents necessary to establish a single Free Trade Area (FTA). It is expected that Heads of State

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<sup>16</sup> See <http://www.sadc.int/fanr/crops/fscbrc/index.php>.

<sup>17</sup> Like some other observers in the SPS Committee, they will be "ad hoc" — invited meeting by meeting, starting in June 2010 — a solution devised because the WTO membership is still deliberating a common approach for observers across all WTO subjects.

<sup>18</sup> Information provided to the STDF Secretariat in a meeting held in Botswana, early May 2010, and in a meeting in Tunis at the AfDB, also in May 2010.

and Governments will soon pronounce themselves on the way forward to set up the FTA.<sup>19</sup> Standards experts of the three RECs have been part of this process and it is anticipated that coordination and harmonization in the areas of SPS and TBT will be further strengthened as this initiative develops.

(e) West African Economic and Monetary Union (WAEMU)

SPS policy framework

81. In 2007, WAEMU adopted an SPS Regulation ("Règlement") relating to food safety and the protection of animal and plant life and health.<sup>20</sup> The document is composed of several sections ("Titres"), including one section on General Principles ("Dispositions Générales"). In spite of similarities in this section with other regional policy frameworks and the SPS Agreement, the nature and objective of WAEMU's SPS Regulation appears to be significantly different. In 2009, WAEMU adopted two additional regulations.<sup>21</sup> Taking into account the structural similarity and technicality of the three regulations and the limited scope of this study, the brief analysis below covers essentially the SPS Regulation of 2007 and refers, where appropriate, to the other two regulations.

82. The approach of WAEMU seems to be more practical and "hands on" than in other regional policy frameworks. It appears that the underlying concern was to produce an SPS framework which could readily be used, not only as an umbrella of general principles but also as a legal and technical instrument, addressing Member States institutional (and technical) weaknesses. Despite this approach, WAEMU's SPS Regulation also draw part of its content – in particular in the General Principles – from the SPS Agreement.

83. The following is an illustrative - non-exhaustive - list of some observed discrepancies (the provisions refer to the WAEMU SPS Regulation).

- Preamble: Among the regional SPS policy frameworks under analysis, this is the only framework which makes no reference to the SPS Agreement in the Preamble. Definitions are numerous and go well beyond the definitions in the SPS Agreement. Nonetheless, the text of the SPS Agreement has been partially used in some cases. The WAEMU SPS Regulation does not address some key notions of the SPS Agreement, such as non-discrimination, non-arbitrariness, disguised restrictions on trade. However, some of its articles make cross references to WAEMU's Union Treaty which stipulates that trade bans or restrictions applied by virtue of SPS measures, among others, shall constitute neither a means of arbitrary discrimination nor a trade restriction between Member States.<sup>22</sup>
- Article 1 (Definitions): The definition of an SPS measure draws from the text of the SPS Agreement but was changed in a manner that reduces the scope of the definition. The reference to the international standards, directives and recommendations of Codex, OIE and IPPC also draws from the SPS Agreement, and is out of context and somewhat confusing.

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<sup>19</sup> SADC, COMESA and EAC consist of 26 countries with a combined population of 527 million, a combined Gross Domestic Product (GDP) of US\$ 624 billion, and a GDP per capita averaging US\$1,184. The 26 countries make up half of the African Union in terms of membership, just over 58% in terms of contribution to GDP and 57% of the total population of the African Union. (Source: "Vision: Towards a Single Market, Theme: Deepening COMESA-EAC-SADC Integration" - First COMESA-EAC-SADC Tripartite Summit, Kampala, Uganda, 20<sup>th</sup> October 2008).

<sup>20</sup> «Règlement N°7/2007/CM/UEMOA Relatif à la Sécurité Sanitaire des Végétaux, des Animaux et des Aliments dans l'UEMOA».

<sup>21</sup> See footnote 9.

<sup>22</sup> "Les interdictions ou restrictions appliquées en vertu de l'alinéa précédent ne doivent constituer ni un moyen de discrimination arbitraire ni une restriction déguisée dans le commerce entre les Etats membres". WAEMU Treaty, Article 79.

Interestingly, a definition of an international phytosanitary standard is provided but no definition is provided for a food safety standard (guideline or recommendation) or for animal health and zoonoses.

- Although the WAEMU SPS Regulation defines a disease-free area ("Zone indemne"), with regard to animal health, through a reference to the OIE guidelines and recommendations, it does not define an area of low pest or disease prevalence, nor does it define a pest-free area.
- Article 5: This article deals with the use of international standards and is a good illustration of the broader ambition, nature and scope of this policy framework, as compared to the other frameworks and the SPS Agreement. Unfortunately, it uses confusing language when it promotes the use of international standards, guidelines and recommendations, such as those developed by Codex, OIE and IPPC, but also those of WTO (SPS *and* TBT). The WTO is not a standard-setting organization. This is still a wide-spread confusion and the use of inaccurate language in legal instruments of this importance is misleading. Article 5 also encourages Member States to use international standards, guidelines and recommendations developed by the Cartagena Protocol (the Regulation includes a definition of "Novel foods").<sup>23</sup>
- Article 6: This article addresses the principles of level of protection and risk assessment and states that Member States determine their appropriate level of protection in conformity with the international standards. This language is confusing and does not refer to the important issue of consistency in the application of the concept of appropriate level of protection. Article 33 (which provides modalities for the implementation of Article 6) is broadly based on the SPS Agreement modalities - but (like other articles) goes beyond the Agreement in accordance with the practical and "hands on" approach of WAEMU.<sup>24</sup>
- Article 7: This article can be read as a re-writing of Article 5.7 of the SPS Agreement, which deals with the provisional adoption of SPS measures.<sup>25</sup> Aside the fact that the title of article 7 of the WAEMU SPS Regulation ("Precautionary Principle") is controversial in light of WTO dispute findings, article 5.7 of the SPS Agreement allows precautionary measures to be taken on a provisional basis, but "...Members shall seek to obtain the additional information". The WAEMU text suggests a static attitude: "... while waiting for scientific information".
- TITLE IV of the SPS Regulation deals with sectoral rules. In this Title, the WAEMU SPS Regulation establishes three chapters which address practical and technical rules dealing with plant health, animal health and food safety, respectively. These chapters encompass and develop some of the General Principles - but also develop rules and procedures for the public and private sector. They are prescriptive in nature and provide a significant level of detail - apparently designed to address and guide Member States' institutional (and technical) weaknesses.

#### SPS strategy and/or action plan

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<sup>23</sup> Article 5 reads as follows: "Reconnaissance des normes internationales - Afin de permettre la libre circulation dans l'Union des végétaux et produits végétaux, des animaux, produits animaux, produits d'origine animale et aliments pour animaux, des denrées alimentaires, ainsi que les produits issus des biotechnologies modernes et de favoriser leur commerce international et régional dans des conditions sanitaires satisfaisantes, les Etats membres: fondent leurs mesures sanitaires sur les normes, directives et autres recommandations internationales notamment celles du Codex Alimentarius, de l'OMC (Accords SPS et OTC), de la CIPV, de l'OIE ainsi que celles établies par le Protocole de Carthagène sur la prévention des risques biotechnologiques (...)."

<sup>24</sup> Contrary to what is referenced in Article 6, the implementation modalities for risk assessment are not contained in Article 9, but in Article 33 of the Regulation.

<sup>25</sup> See footnote 10 for the text of Article 5.7 of the SPS Agreement.



84. Regional SPS harmonization is a strong component of WAEMU's strategy, as illustrated by the development and adoption of the SPS Regulation in 2007 (developed in cooperation with FAO) and followed by the adoption of two additional regulations in 2009. Also relevant is WAEMU's additional act on the adoption of its Common Agricultural Policy in 2001.<sup>26</sup> WAEMU's strategy involves cooperation with ECOWAS and the «Comité permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel» (CILSS). The strategy is also influenced by the negotiations about the Economic Partnership Agreement (EPA) with the EU.

85. A major challenge in the region, and a key component in WAEMU's SPS strategy, is capacity building and technical cooperation. WAEMU is involved in training activities directed at animal health inspectors and reference laboratories for the analysis of animal and plant products. Close cooperation with Member States and international donors is part of this strategy. In 2008, the EU provided further funding for a West Africa Quality Programme, implemented by UNIDO, which concerns all 15 ECOWAS' Member States. Reportedly, this allocation followed positive results obtained in the WAEMU region under a previous EU-funded quality programme implemented by UNIDO.<sup>27</sup> The new programme comprises eight activities: trade analysis, accreditation, standardization, metrology, product testing, quality promotion, traceability and inspection.

86. In 2009, WAEMU created a regional committee for international trade negotiations. This committee is not yet operational but is expected to serve as a basis for cooperation and coordination of Member States' positions in ISSOs. WAEMU recognizes the need to increase political awareness and training activities with a strong emphasis on cost-benefit analysis to inform SPS-related decision-making. It views that agricultural production must be in line with international standards and that there is a role for the AUC in this regard (even if WAEMU does not cooperate with the AUC). Similar to all other RECs, the WAEMU Secretariat struggles with limited human (2 officials), technical and financial resources to deal with SPS issues.

(f) Economic Community of West African States (ECOWAS)

SPS policy framework

87. All eight WAEMU Member States are also members of ECOWAS (which has 15 Member States). The ECOWAS Regulation (C/REG...06/09 on the Harmonization of the Structural Framework and Operational Rules Pertaining to the Health Safety of Plant, Animals and Foods in the ECOWAS Region) is still "work-in-progress" - but is very similar to the WAEMU SPS Regulation. The development of the ECOWAS Regulation corresponds to efforts to harmonize regulations between the two regions and is expected to enter into force in 2010.<sup>28</sup>

88. The draft version made available to the author was also referenced by the 62nd Session of the ECOWAS Council of Ministers in Abuja in May 2009. Several inconsistencies, including with regard to the correctness of names of bodies and legal instruments (e.g. reference is made to the SPS Agreement as the "WTO SPS Agreements (Marrakech Accord)" in the chapeau, and as the "Agreement on enforcement of sanitary and phytosanitary measures" in the definition) suggest that this text was at a very early stage of development

89. The main difference between the ECOWAS Regulation and the WAEMU Regulation is that the ECOWAS text only deals with animal health and food safety, although its title includes a

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<sup>26</sup> "Acte additionnel N°03/2001 portant adoption de la politique agricole de l'UEMOA".

<sup>27</sup> The programme, implemented by UNIDO in 2001-2005, targeted the improvement of WAEMU quality infrastructure in agro-industry sectors and included technical expertise in accreditation, standardization, metrology, product testing and quality promotion.

<sup>28</sup> This opens an opportunity to carefully check the conformity of the draft ECOWAS Regulation with the SPS Agreement.

reference to plants. Apart from the exclusion of paragraphs or references to plants, all articles in the ECOWAS text are by and large a direct translation of the WAEMU text. Article 8 (Harmonization), 9 (Risk Analysis) and 10 (Principle of free movement of products and equivalence) of the ECOWAS text add specific - but inaccurate - references to articles of the SPS Agreement which do not figure in WAEMU's Regulation.

90. There are several other incorrect or misplaced references to articles of the SPS Agreement in the ECOWAS Regulation - although they may also seem to reflect a concern to preserve consistency with the Agreement. The text is undoubtedly still a rough draft and the observations made in the analysis of WAEMU's SPS Regulation remain valid with regard to the ECOWAS Regulation. Hence, the author did not perform a further analysis.

91. Reportedly, the ECOWAS Ministers of Agriculture, Trade and Health have considered the draft ECOWAS Regulation in February 2010 (presumably reviewed and corrected). The document would then have to be presented to the ECOWAS Parliament (in March) and the Council of Ministers (in May) for adoption. At the time of submission of this report, the author had no access to the final version.

#### SPS strategy and/or plan of action

92. ECOWAS coordinates SPS activities in the region through harmonization and support to Member States in the implementation of specific programs. ECOWAS' strategy involves, as a first step, the harmonization of SPS regulations of the eight French-speaking ECOWAS Member States with the rest of the ECOWAS membership. In doing so, ECOWAS involved technical experts from Member States, as well as experts from partner organizations (FAO, OIE) who prepared and validated harmonization documents. The ECOWAS Joint Legal/Judicial and Agriculture Committee compared and aligned the documents to international standards and related them to the ECOWAS legal texts. The Specialized Technical Committee on Agriculture, Environment and Water Resources, comprising the Ministers of Agriculture, Livestock, Health and Trade, validated these documents in Abuja in February 2010.

93. Given the overlap in membership between WAEMU and ECOWAS (all WAEMU members are also members of ECOWAS), this harmonization effort of national SPS regulations makes sense. The fact that WAEMU has relatively elaborated regulations in place should contribute to a swift outcome of the inter-RECs harmonization process. It is evident that a single set of standards will facilitate increased intra-regional trade, while strengthening regional integration and food safety and security. The challenge for ECOWAS and WAEMU will be to monitor and assist Member States in the implementation of new regional regulations.

94. ECOWAS' strategy does not involve direct coordination and/or cooperation with other RECs. However, ECOWAS collaborates with the AUC in the implementation of SPS activities under the PAN-SPSO project, the BTSF project and with animal health projects involving other RECs at the continental level. The development of cooperation agreements and programmes with international organizations is part of ECOWAS' strategy on SPS issues. The EU and Spain are among the major development partners. ECOWAS organizes training workshops for "SPS focal persons" in its Member States at the national level. In addition, it has formed a Regional Veterinary Committee, a technical advisory body composed of Directors of Veterinary Services in the region, which provides advice and expertise on sanitary issues. ECOWAS has observer status in the ISSOs and, in March 2010, also became an observer to the WTO SPS Committee on an ad hoc basis.

95. The aforementioned West African Quality Programme (total value €14 million) is one of the major capacity building programmes involving other organizations. Jointly implemented by ECOWAS and WAEMU in cooperation with UNIDO and financed by the EU, this programme aims to foster compliance with international trade rules and regulations, in particular the WTO TBT and SPS Agreements, through the establishment and strengthening of national and regional quality

infrastructure for the West African region. The programme will contribute to upgrading national and regional quality infrastructure and services to guarantee that goods meet international market requirements, including TBT and/or SPS public and private standards.

(g) Community of Sahel-Saharan States (CEN-SAD)

SPS policy framework

96. CEN-SAD has indicated that an SPS policy framework will be developed after the adoption of the region's free trade zone.

SPS strategy and/or plan of action

97. In its reply to the questionnaire, CEN-SAD stated that it does not have a specific strategy on SPS matters. It deals with SPS issues on an ad-hoc basis. CEN-SAD does have observer status in Codex - but not in OIE and IPPC (though applications have been made). In March 2010 it became an observer to the WTO SPS Committee. In its application for observer status, CEN-SAD highlights that one of its objectives is the removal of all restrictions to the integration of its Member States through the adoption of measures to ensure free trade and movement of goods, commodities and services from Member States.<sup>29</sup> It also provided information on its Regional Food Security Programme which aims at increasing food security and building the capacity of its Member States to effectively implement and promote SPS standards.

98. In its application, CEN-SAD also referred to a Regional Programme for the Control of Transboundary Animal Diseases in the region. It stressed that it seeks to reduce the threats posed by principal diseases in order to improve livestock productivity, safety of food products of animal origin and market access. CEN-SAD is currently involved in the implementation of the PAN-SPSO project with other African partners, notably AU/IBAR and AU/IAPSC. It cooperates with ECOWAS, WAEMU and the African Union on broader issues including the Great Green Wall Initiative. This initiative encompasses a set of cross-sectoral actions and interventions aimed at the conservation and protection of natural resources with a view to achieving development and alleviating poverty.<sup>30</sup> Apart from the PAN-SPSO project, CEN-SAD has cooperation agreements/programmes with several international organizations, including FAO, the Sahara and Sahel Observatory (OSS), UNCCD, etc.

(h) Economic Community of Central Africa States (ECCAS)

SPS policy framework

99. The Economic Community of Central African States (ECCAS) communicated to the author that it intends to develop common phytosanitary regulations for the region.

SPS strategy and/or plan of action

100. In general terms, ECCAS identified as regional SPS priority needs the lack of robust legal frameworks and control structures as well as limited human and financial resources. Lack of political awareness about SPS issues was also identified as a serious constraint. Its strategy is based on the implementation of the Food Security Regional Programme ("Programme régional de sécurité alimentaire" - PRSA), developed in cooperation with FAO, and adopted by Heads of State in 2004. It includes the development of SPS regulations in the areas of food safety, animal and plant health.

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<sup>29</sup> See WTO document G/SPS/GEN/121/Add.5.

<sup>30</sup> The Great Green Wall Initiative for the Sahara and the Sahel\ OSS; CEN-SAD, Introductory Note Number 3, OSS, Tunis, 2008.

101. Recommendations made by the FAO consultant involved in the initial drafting phase of common phytosanitary regulations for the region include *inter alia*: (i) adoption of a phytosanitary certificate for the region based on the IPPC model; (ii) implementation of national regulations based on scientific justification; and (iii) establishment of a regional laboratory on pesticide residues analysis. The consultant also addressed institutional problems and made several recommendations regarding organization, structure and training. Emphasis is put on cooperation with other RECs and international organizations.

## **V. CHALLENGES AND OPPORTUNITIES**

102. Several regional (draft) SPS policy frameworks were identified in the course of this study. Four frameworks have entered, or will soon enter, into force (COMESA, SADC, WAEMU and IGAD), while three others (EAC, ECCAS and ECOWAS) are ongoing projects. CEN-SAD indicated its intention to develop a regional SPS framework in the longer term. The sections below highlight some of the inter-related challenges regarding the development and implementation of regional SPS frameworks - depending on their nature and objective.

### **A. CHALLENGES**

#### **(a) Duplication, overlap and contradiction with the SPS Agreement**

103. A noteworthy challenge of all regional frameworks is to guarantee their alignment with the SPS Agreement. Three regional frameworks (COMESA, EAC and SADC) are clearly based on the text of the SPS Agreement. Because these frameworks tend to draw considerably from the SPS Agreement, using at times extensively its language out of the original context, the risk of overlap, or even contradiction with the Agreement, is evident. Chapter IV above highlights some examples.

104. The more technical ("hands on") approach in the WAEMU framework and, as it stands, the ECOWAS framework, which aim to primarily address Member States' institutional (and technical) weaknesses reduces this risk of overlap and contradiction, except under the "General Principles". At this stage, it seems that ECCAS' approach will be to develop regional SPS regulations in the areas of food safety, animal health and plant protection, thus not opting for the "umbrella" type of framework.

105. Of particular concern is the multiplication of transparency requirements in several regional frameworks. Most frameworks require the publication and especially notification of SPS measures which, broadly speaking, mirrors the SPS Agreement requirements and procedures. These requirements may easily become an unnecessary burden for Member States. It remained unclear to the author to what extent these regional transparency mechanisms are already being implemented and, if so, how effective they are. It should be noted, however, that most African countries have never notified SPS measures to the WTO, or have notified measures only once or twice. This is an area where the use of practical implementation modalities – which take into account the various transparency tools developed by the WTO SPS Committee – such as the SPS Information Management System (SPS IMS) – should be considered.<sup>31</sup>

106. African countries face numerous challenges in the SPS area and do not need more accrued bureaucracy. What they need are practical ways to support the implementation of the SPS Agreement, to which the vast majority of African countries are legally bound, at the national level.

#### **(b) Duplication, overlap and contradiction among different SPS frameworks**

107. Several countries are members of more than one REC. One country is a member of four RECs, 13 are members of three RECs, 26 are members of two RECs, and 12 are members of just one REC. Twenty countries are members of at least two RECs that have developed their own SPS policy

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<sup>31</sup> See <http://spsims.wto.org/>

frameworks. An overview of membership in the RECs is provided in Annex 4. Hence, a major challenge will be to guarantee harmonization among the different regional SPS policy frameworks. Unless frameworks are developed taking into account the existence of other relevant frameworks (which in itself implies additional use of already scarce human and financial resources), the risk of conflict is obvious.

108. Noteworthy in this regard is the ongoing harmonization work among SADC, COMESA and EAC in view of the establishment of the three regions' Free Trade Area. Due to the existence of three different (draft) SPS frameworks, coordination and harmonization efforts to achieve a common SPS policy for the area will be demanding and eventually require a thorough examination and re-writing of some of the frameworks. In the long term, perhaps only one common regulation may survive this harmonization effort. The ongoing efforts to develop the ECOWAS SPS Regulations while taking into account the existing WEAMU Regulations are also a case in point.

(c) Duplication, overlap and contradiction with international standards

109. The risk of duplication, overlap and contradiction with international standards, guidelines and recommendations developed by Codex, OIE and IPPC seems relatively remote as far as the "umbrella frameworks" are concerned. As illustrated above, these frameworks carry more significant potential of conflict with the SPS Agreement. The frameworks of WAEMU and ECOWAS, which go beyond general principles and embody technical regulations and requirements have more potential for conflict with international standards, guidelines or recommendations. The continuous involvement of the ISSOs - and their parent organizations - in the development and validation of these frameworks would seem opportune to avoid divergences.

(d) Trade-restrictive effects

110. The purpose of the regional SPS policy frameworks is to protect life and health, but also to facilitate regional trade, while offering member countries an institutional legal framework that they may lack or - at a minimum - a core set of rules in which they can anchor their scattered national SPS laws, regulations, requirements and procedures. At a minimum, the challenge is to guarantee that regional SPS frameworks are widely acknowledged and used as a reference for the development of SPS measures by Member States in the region. If not, the utility of developing such instruments can be questioned.

111. As illustrated above, the provisions of the frameworks in place are in some instances overlapping, duplicating or even contradicting the provisions of the SPS Agreement and of other regional SPS frameworks. Member States are forced to refer to more than one legal framework which governs their trade practices, depending on the origin of the products (if within the region or from third countries) and those instruments are not coherent among themselves. This situation is confusing and has the potential to create undesired trade barriers and negatively affect inter-regional trade.

(e) Limited financial and human resources

112. The development and effective implementation of regional SPS policy frameworks by Member States will require substantial financial and human resources from both Members States and regional Secretariats. Because of their political nature, RECs are organizations at the service of its members. Because of this, the delivery capacity of the Secretariats depends heavily on the level of commitment of those States.

113. All SPS frameworks refer to the establishment of various administration mechanisms – commissions, committees, sub-committees, etc., in which regional and national SPS officials would have to participate (although admittedly a significant part of the work could also be done electronically). In addition, several frameworks include references to burdensome regional

transparency mechanisms. Some regional SPS policy frameworks require that Member States establish their own national SPS committees.<sup>32</sup>

114. Generally, resources to coordinate SPS issues at the regional level tend to be scarce. Replies to the questionnaire indicate that RECs normally have only one or two officials working on SPS matters in a coordinating role. Many of these officials often have responsibilities in other areas, too. Without additional resources becoming available (i.e. through technical cooperation programmes - but ideally through allocations of member states to foster sustainability), the effective implementation of regional SPS policy frameworks will remain an illusion.

115. Naturally, depending on the number of Member States and the level of responsibilities, there may be important differences in terms of resources needed. Secretariats are essentially "facilitators" and it is not believed that a large number of dedicated SPS officials is required. However, there is little doubt that human resources need to be reinforced, taking also into account the relatively high level of staff turnover.

116. Although the author did not have access to the detailed financial information of the RECs, the general opinion is that resources are, in most cases, rather limited. However, depending on the responsibility, financial resources might come from external sources (e.g. capacity building partnerships, special programmes, etc.).

#### B. OPPORTUNITIES

117. Regional SPS policy frameworks may prove to be useful tools in overcoming countries' SPS weaknesses, depending on their nature and objective, and provided that their harmonization with the SPS Agreement and with other relevant frameworks is guaranteed. The section below highlights some of the inter-related opportunities regarding the development and implementation of regional SPS frameworks.

##### (a) Legal frameworks for member states

118. Regional SPS policy frameworks may provide members the legal framework that they do not have in place. This seems to be the approach taken by the WAEMU Regulations and the ECOWAS Regulation will take a similar approach. Both instruments include a set of general principles and relatively detailed technical regulations addressing their member states' institutional (and technical) weaknesses. IGAD's approach may also be of interest in that it provides a framework which aims to launch a process of regional harmonization and enumerates implementation actions to be undertaken by member states in cooperation with the IGAD Secretariat.

119. The other "umbrella" frameworks, however, do not seem to add much to the SPS Agreement *per se* and their utility can be questioned. Presumably, time and resources dedicated to the development and implementation of these instruments could be better used elsewhere. Most African countries struggle to implement the provisions of the SPS Agreement itself and it is questionable whether they would be more successful in implementing (multiple) regional SPS frameworks.

120. It should be noted that regional SPS frameworks could potentially be important for countries that are not yet WTO Members by offering these countries a legal environment to benefit from

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<sup>32</sup> The establishment of efficient national coordination mechanisms is essential. However, most countries in Africa do not have such mechanisms in place or are at an early stage of establishing such structures. One could argue that countries' first priorities may not be regional matters - but national issues. Conversely, as illustrated by the "Proposed Modalities for the Formation/Strengthening and Operation of National SPS Committees" recently developed by AU/IBAR, the RECs may have a unique opportunity to help Member States in their efforts to establish such mechanisms at the national level. The existence of national SPS coordination mechanisms in Africa is subject of an ongoing parallel scoping study funded by the STDF. The results of this study should become available in the second half of 2010.

harmonized rules within a particular region. Provided that they are consistent with the WTO SPS Agreement, regional frameworks can be a useful tool in WTO accession negotiations in which most of these countries are currently involved.

(b) Harmonization between regional and international standards

121. There is a widespread belief that there is a need for the development of regional standards. Reasons for this belief vary. Trade with neighbouring countries, for instance, is often perceived as the most important. Others argue that the needs of developing countries are not duly addressed within the context of the standard-setting work of the ISSOs. In the development of regional standards, it will be important to ensure that they are aligned with the relevant international standards and do not discriminate, or unnecessarily affect, trade with countries outside the region.

122. For instance, the careful drafting of the Preamble of WAEMU's SPS Regulation refers to as one of the purposes of the Regulation the set up measures and actions essential for the harmonization of technical and sanitary standards relating to agricultural products and food – including the production process – in conformity with the international requirements on food safety, animal health protection and plant protection, established by the Codex, OIE and IPPC, respectively. Other regional frameworks, e.g. EAC Draft SPS Protocol and related Volume standards I and II, use more or less carefully drafted language addressing the need for the harmonization of SPS measures.

123. This is not the place, nor does the author have the required qualifications, to establish if regional standardization efforts duly take into account existing international standards. Presuming that they do – and frequent references to the involvement of experts of the standard-setting bodies in different expert committee meetings are reassuring in this regard – the regional standards' reason for being is that they provide a plus, something that international standards do not provide, to facilitate regional trade. If they do not, they defeat their own purpose and entail all the risks involved in useless duplication.

(c) Increased coordination

124. Regional SPS frameworks may provide unique opportunities for increased regional coordination and cooperation through the establishment of regional implementation mechanisms. ("regional SPS Committees").<sup>33</sup> The most common model used is the mechanism where each Member State is represented by at least one official, ideally a representative of the National SPS Committee<sup>34</sup>.

125. All of the different RECs' policy frameworks covered in this paper provide for the establishment of an SPS Committee. All the regional SPS Committees have similar functions, acting as fora for consultations, exchange of information, organization of regional events, participation in regional – and whenever possible, international – harmonization activities, etc. The utility of these fora is straightforward. The challenge is how to fully take advantage of their existence in a successful manner. This means if they would be able to conduct efficiently an appropriate agenda and tackle Member States' SPS issues, go beyond the general principles and the simple identification of weaknesses and address real/practical problems and propose solutions. For instance, they should be able to address regional SPS-related trade concerns, avoid or potentially resolve trade disputes, or develop action plans to address specific SPS issues.

126. The success of these committees depends significantly on the Member States' sense of "ownership". Concerns with potential "threats" to national priorities and fears of loss of national sovereignty are problems that have been well identified by several RECs. However, good leadership and a carefully drafted agenda, including common interest items such as the development of common

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<sup>33</sup> In the case of WAEMU and ECOWAS, the Commission plays the role of implementation mechanism.

<sup>34</sup> See for instance the SADC Sanitary and Phytosanitary Coordinating Committee.

positions on specific SPS issues - for discussion at ISSO's meetings or in the WTO SPS Committee - should help dilute such fears.<sup>35</sup> Similarly, in an international negotiation context, regional SPS Committees can play a key role in promoting coordinated positions.

127. It can be argued that RECs' regional SPS coordination bodies could exist regardless of the existence of SPS policy frameworks. It seems however that these frameworks – weaknesses aside – may offer adequate legal basis to assist Member States to identify, promote and defend regional interests.

(d) Resource mobilization for capacity building and/or technical assistance

128. All seven regional frameworks, or draft frameworks, include capacity building and/or technical assistance provisions. On the other hand, all the RECs which replied to the questionnaire<sup>36</sup>, confirmed that one of their key roles is to support Member States capacity building efforts and provide technical assistance. Moreover, all of them indicated that they are currently involved in one or more technical assistance/cooperation activities in their corresponding regions.

129. RECs do not need regional SPS policy frameworks to undertake or sustain capacity building and/or technical assistance activities (CEN-SAD, ECCAS and until recently IGAD had not developed SPS frameworks and are involved in various capacity building activities). However, by their legally binding effect on Member States, well crafted capacity building and/or technical assistance provisions in SPS frameworks may facilitate resource mobilization and political commitment and awareness. The challenge for significant accrued added value in this respect will be the insertion of language going beyond wishful or best efforts declarations and actually commits Member States.

(e) Facilitating dissemination of information

130. Instead of developing additional transparency requirements which may easily duplicate the provisions of the WTO SPS Agreement, regional frameworks could be useful instruments to create the conditions for the smooth gathering, provision and dissemination of information, in particular technical information, through the establishment of appropriate channels. Meetings of "regional SPS Committees" offer privileged information gathering opportunities for representatives of Member States, and presumably one of the regular agenda items should deal with "information from Member States".

131. The challenge is the development of appropriate channels for information dissemination by Secretariats of the RECs using all the suitable electronic means, such as information portals (i.e. IGAD's Livestock Information Portal) and databases. At a minimum, the RECs websites, where SPS information is in most cases scarce and scattered, should be properly organized and kept up to date. This would require negligible resources.

(f) Trade facilitation in the region

132. This may sound as an overstatement. We have seen that, even if one of the claimed objectives of regional frameworks is to promote or facilitate the implementation of the WTO SPS Agreement, these instruments also carry the potential to restrict trade. However, to offer Member

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<sup>35</sup> Reportedly, last year's workshop organized by AU-IBAR for Chief Veterinary Officers in Africa, funded by PAN-SPSO, was rather successful in helping participants to take common and supportive positions at the OIE Annual Assembly in May 2009. The author was informed that many representatives of developed countries were impressed with the coordinated presentations made by African countries' representatives. There are also several examples of joint positions expressed by African countries in SPS Committee meetings. Although these common positions were not necessarily developed in regional meetings, but seemingly in Geneva by country representatives, they normally lead to a faster solution of problems.

<sup>36</sup> CEN-SAD, COMESA, ECCAS, ECOWAS, IGAD, SADC and WAEMU. EAC and UMA did not reply.



States an adequate institutional framework, in which they can secure fragile or embryonary national SPS laws or regulations, is a positive step forward. The challenge is on the enforcement to make it work in practice.

133. The solution may be the development of practical approaches, such as the COMESA Green Pass. By including the development of a commodity specific SPS certification scheme in its Draft SPS Regulation, COMESA introduced a mechanism which, while protecting health and life, has the potential to facilitate trade. The challenge here – and the current draft raises some concerns in this regard – is to avoid the multiplication of bodies or "authorities" and procedures involved in the certification process. It is important to limit the bureaucracy to the strict minimum.

(g) Development of regional SPS strategies

134. In its reply to the questionnaire, COMESA indicated that its SPS strategy is "to implement SPS Regulations through a certification system to be called the COMESA Green Pass, which will be a retainer and commodity based system, based on regionally agreed standards and requirements for the commodity in question. In compliance with this certification system, Member States will then be obliged to satisfy the requirements of the WTO SPS Agreement and COMESA SPS Regulations".

135. One can argue that the creation of the COMESA Green Pass system does not need the development of COMESA SPS Regulations. Admittedly, however, SPS Regulations contain structuring provisions, such as those dealing with regional accreditation bodies and regional SPS reference laboratories, which may offer Member States opportunities to develop national SPS strategies based on regional/common efforts.

136. The example highlights the fact that more "user-ready" and "hands-on" provisions of regional SPS frameworks, moving away from the text of the SPS Agreement, reduce the risk of duplication and are more useful and practical tools to support countries in their efforts to implement the provisions of the SPS Agreement.

## **VI. SUGGESTED AREAS FOR FUTURE WORK<sup>37</sup>**

### **A. AFRICAN UNION COMMISSION (AUC)**

137. The role of the African Union Commission with respect to SPS issues is of an overarching nature but, as suggested above, it is not certain that in order to play this role, it needs to develop a SPS policy framework. As appealing as it may be, the development of a "general framework" at the African Union level, which "should be general enough to allow RECs to develop detailed frameworks", should be approached carefully. The author is unclear about what the notion of a "general SPS framework" exactly entails. However, if it means the addition of another legal layer between the WTO SPS Agreement, the standard-setting activities of Codex, OIE and IPPC and the RECs SPS frameworks, it may not be the most efficient approach to take.

138. The AUC can and should play an important role with regard to resource mobilization and gathering political awareness and support at a high level policy decision making. The AUC seems also to be seen as the natural partner to promote coordination and harmonization of SPS standards, policies and strategies among the RECs. The analysis of various SPS policy frameworks and the description of the RECs' responsibilities illustrate the risks of overlap among the different instruments (among themselves and with the WTO SPS Agreement and ISSOs standards). The AUC could play a coordinating role in this regard.

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<sup>37</sup> The reference to responsibilities and resources are understood to refer to the RECs Secretariats' responsibilities and resources, although it is recognized that in some cases there may be shared responsibilities and/or a fine line between the Member States' responsibilities and the Secretariats.

139. Evidence points to the need to define a clear strategy and establish priorities, including building regional SPS management capacity. It is more important to put in place an adequate management mechanism than to develop a policy framework. IBAR, with respect to animal health, and IAPSC, with respect to plant protection, appear as natural bodies to play an important role in this regard and, although their capacity to deliver may need to be re-examined and reinforced, their recently redefined strategic plans (see above) point to new dynamism and priorities' setting. Although DREA has some responsibilities with regard to the inspection of food production facilities, there seems to be no similar structure with respect to food safety. At the AUC level, this appears to be the weakest link, and the establishment of a food safety dedicated structure may be one of the Commission's first priorities. The DREA could become the coordinating body of the three technical bodies, with strengthened responsibilities for the development of a coherent food chain holistic approach.

140. The question regarding the creation of an African Food Safety Authority, at the image of the European Food Safety Authority (EFSA), was raised during the preparation of this scoping study. EFSA is an independent agency which deals exclusively with risk assessment, committed to provide science-based advice. It covers food and feed safety, nutrition, animal health and welfare, plant protection and plant health. Risk management is not its field of competence, and it operates in close collaboration with generally well organized national authorities<sup>38</sup>. The author does not have the necessary background to evaluate this question in depth but, with all national, regional and continental challenges that have been identified, wonders if the time is ripe for such approach at the African Union level<sup>39</sup>.

141. The PAN-SPSO project between the AUC, the EU and the ACP Secretariat on behalf of COMESA, EAC, ECOWA, IGAD and SADC is a good example of the strategy to be used by the AUC. It appears to be a new cooperation strategy in the SPS area. Noting that the majority of programs that address SPS-related problems in Africa focus on technical issues such as the provision of technical assistance/expertise, training and investment in maximum residue levels (MRL), improving sanitary and hygienic conditions for certain products, disease and pest control and harmonization of SPS measures, this specific program aims at promoting participation and contribution in setting standards.

142. The expected results – including empowered SPS offices for effective participation in SPS standard-setting activities, strengthened adoption of common positions in the development of SPS standards, strengthened capacity of African countries to draft standards and develop science-based arguments, and capture and dissemination of SPS-related information in the continent through an information sharing platform – appear to be right steps in addressing repeated concerns of lack of involvement of the RECs in ISSOs activities. A side result should be the strengthening of the AUC role on SPS-related matters.

143. The AUC could also take on the responsibility of assisting and/or intensifying assistance to the RECs and Member States in other capacity building activities. It seems that the AUC could, in cooperation with the RECs, lead the initiative to draw-up an action plan dealing with Africa's technical assistance needs. When questioned, all the RECs recognize as an important role for the AUC to support and strengthen Member States and RECs' capacity in the SPS area, as well as to provide technical expertise and information. The time seems ripe for the AUC to assume a leadership

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<sup>38</sup> For more information see <http://www.efsa.europa.eu/>

<sup>39</sup> The author observed the long development period for the establishment of the Caribbean Agricultural Health and Food Safety Agency (CAHFSA), among a much smaller number of more homogenous countries. After several years of negotiations, CAHFSA was launched in Suriname in March 2010. One major stumbling block for its creation was the unwillingness of all countries to commit to ensure long-term, sustained financing.

role and, ideally in partnership with the RECs and other public and private sector stakeholders, to develop what could become an African technical assistance "road map".

144. The EU-funded Better Training for Safer Food (BTSF) in Africa programme provides a good example of a stepwise approach in which the AUC, as an active beneficiary and participant, could draw inspiration for further activities. Its main objectives are to strengthen human capacity by training trainers, especially with regard to veterinary and laboratory services, to help improve national and regional legal frameworks aiming at their harmonization, and to strengthen the capacity of small and medium enterprises to boost market access.

145. The AUC could also be instrumental in replicating other successful regional technical assistance programmes on the continent, e.g. the Regional Action Plan to control Fruit Fly in West Africa put in place by ECOWAS, in cooperation with the STDF and the World Bank.<sup>40</sup>

146. Developing institutional capacity of African countries to actively participate in the SPS Committee is another initiative that AUC could undertake possibly in cooperation with some of the RECs. A similar initiative was successfully launched by the Inter-American Institute for Cooperation on Agriculture (IICA), aiming at promoting a common and shared vision involving public and private sectors and Member States for active participation in the SPS Committee.<sup>41</sup>

## B. REGIONAL ECONOMIC COMMUNITIES (RECs)

147. When asked what should be their role in the SPS area, RECs invariably refer to assisting Member States in meeting adequately their SPS requirements. However, RECs are also eminently political constructions and as such their sectoral responsibilities tend to be based on Member States' mandates and their "funding texts" are necessarily of a general nature. Some of the RECs view the development of regional policy frameworks as their main responsibility, sometimes directed by the funding texts. However, whatever the responsibilities, the capacity of delivery of the RECs depends necessarily on Member States' interests and sense of ownership. The capability of RECs to address this challenge, essentially a political question, largely conditions their success.

### (a) Regional coordination

148. Regional coordination and harmonization of SPS issues among Member States is generally seen as one of the most prominent roles of the RECs in the SPS area. Good coordination presupposes the existence of good management mechanisms. Most RECs have regional SPS Committees (or Commissions) in place and, in some cases, technical sub-committees. However, effective regional coordination also requires good coordination within the Member States. It is well known that national coordination constitutes a serious challenge in many African countries and examples of lack of coordination among national SPS authorities are abundant. An additional challenge is the often weak coordination with and involvement of private sector stakeholders.

149. Despite national coordination weaknesses, the organization of regional meetings to deal with SPS issues seems to be a frequent practice. Within the limited scope of this study, it is not possible to address the effectiveness of these multiple meetings. Their rate of success should be addressed on a case-by-case basis. However, by reading documentation and contacting various experts, the author did sense the feeling of a certain frustration, notably in relation to how the concerns raised at regional meetings are taken care of and how effectively recommendations are actually being implemented at the national level.

150. One of the consequences of the lack of coordination at the national level is the risk of asymmetries in the development of the three main SPS areas: food safety, animal and plant health.

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<sup>40</sup> See <http://www.standardsfacility.org/TAFruitFly.htm>

<sup>41</sup> See STDF project STDF/PG/108 (<http://www.standardsfacility.org>).

This may be the consequence of some positive and well-founded reasons, such as a particularly dynamic export-driven sector supported by a strong private sector or desired national priorities.<sup>42</sup> However, if the reason is elsewhere - limited institutional capacity, structural weaknesses, low sectoral awareness, poor sector organization, etc. - the RECs may have a role to play, e.g. through training activities, alerting national authorities, promoting the use of international ISSOs evaluation tools, creating awareness, etc.

(b) Harmonization of SPS standards and measures/policies of Member States

151. The harmonization of SPS standards and measures/policies of Member States is recognized as one of the major responsibilities of the RECs. This issue is dealt with extensively in other sections of this paper. However, a word of caution is necessary. The terms "standards harmonization" is used with several different meanings: harmonization of national SPS standards within a region; harmonization of national SPS standards with regional standards; and ultimately harmonization of national or regional standards with international standards. It is the responsibility of the RECs, if they have to develop regional standards, to deliver standards based on international standards, avoiding unnecessary duplication and, when necessary, validating them with the respective ISSOs.

(c) Capacity building

152. All the RECs have capacity building and technical assistance responsibilities to assist Member States in meeting SPS requirements and obligations. However, in general the RECs have limited human, financial and technical resources. Their involvement in capacity building and technical assistance is thus heavily reliant on support from external partners. There is a multitude of ongoing capacity building and technical assistance activities in Africa, and indeed, coordination of these activities could be part of the RECs responsibilities. All the RECs which replied to the questionnaire mentioned some of the activities in which they are involved (see the section dealing with strategies and action plans at the RECs level).

(d) Promotion of regional interests

153. RECs have a comparative advantage to identify and promote SPS regional interests. This refers to responsibilities to alert and inform Member States about SPS-related issues of particular interest for the region, as well as to promote and represent regional interests at the international level. In this regard observer status and/or cooperation agreements that RECs can have with the ISSOs constitute an important advantage. To facilitate the development of Member States' common positions in international gatherings can be another efficient way to promote SPS regional interests.

(e) Facilitating information provision and exchange among Member States

154. In order to fulfill the mandate given to them by Member States, RECs have a significant amount of information coming from multiple sources, including Member States themselves, capacity building partner organizations, different committees and technical sub-committees, international standard-setting organizations, private sector, etc. Due to the increased availability and use of IT technologies in most regions of the world, including the use of e-mail and access to Internet, information sharing has become a much easier task.

155. During the preparation of this paper, however, the author found little evidence that technology is being used sufficiently by the RECs with regard to SPS-related information. In particular, there is very limited SPS information available on the websites of the RECs and, when

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<sup>42</sup> The traditional economic importance of the animal health sector in many African countries, the impact of transboundary animal diseases and zoonoses and the better organization of the sector, probably explains why in many African countries animal health measures are better implemented than plant protection or food safety measures.

there is information available, it is scattered and not properly identified. A technically simple solution could be the creation of a web-page on SPS issues. Similarly, RECs have the responsibility to facilitate dialogue among Member States by organizing regional meetings of experts and other SPS stakeholders. The use of IT facilities could also be further explored in this context.

156. As noted in other sections of this paper, some of the regional SPS policy frameworks introduce new transparency obligations to Member States, including notification obligations. If duly implemented by Member States – aside the risk of duplication with WTO SPS Agreement provisions – these procedures could generate rather useful and additional information to Member States. Conducting studies/research on relevant SPS issues or the creation of technical and scientific data banks, are other venues that can usefully assist Member States.

(f) Monitoring the implementation of the regional SPS frameworks

157. Implementation concerns in terms of human and financial capacity of the RECs and Member States, as well as in terms of risks of duplication with requirements of the SPS Agreement, have been addressed in other sections of this paper. However, the entry into force of regional SPS frameworks carries the responsibility for RECs to monitor their implementation. The question therefore arises how to proceed and whether, on the one hand, Member States have adequate enforcement capacity and, on the other hand, RECs have the institutional capacity to carry out the monitoring task. This typically includes notification and maybe counter-notification procedures, re-distribution of notifications to Member States, organization of meetings to discuss notifications and SPS information, technical assistance to Member States, etc. All of these are resource-intensive activities.

(g) Adjudicating on SPS-related trade disputes between Member States

158. The resolution of regional SPS trade concerns and disputes could well be within the scope of responsibilities of the RECs. However, Member States should be careful not to undermine their rights under the WTO dispute settlement mechanism. The COMESA and SADC SPS frameworks include dispute settlement provisions. However, there is no reference to the WTO procedures. This could be possibly a source of conflict for those countries which are also WTO Members.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

### **A. CONCLUSIONS**

159. The challenges to address SPS issues in Africa are immense. The absence of national strategies to deal with food safety, animal and plant health issues and poor national coordination are common to most African countries. Although some studies point to an emerging governmental awareness about the importance of SPS matters, the need for increased attention and intervention at the highest decision levels remains of utmost importance. Similarly, the lack of public awareness and need for sensitization, in a continent where food security is often the main concern, is of vital significance.

160. Inadequate or highly fragmented SPS measures<sup>43</sup>, often not based on legislation, lead to a reduction of export capacity and affect countries' ability to control the safety of imports. The expansion of regional consciousness and the establishment of RECs carry the potential for an improved approach on SPS matters. RECs have the mandate to develop legal and technical instruments to help member states address weaknesses in managing SPS issues.

161. The task for the RECs is not easy. Their highly politicized nature implies slow decision-making - in this regard they do not differ much from many international organizations - but they lack

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<sup>43</sup> The term "SPS measure" is used in the sense of the WTO SPS Agreement definition, including *all* relevant laws, decrees, regulations, requirements and procedures.

visual delivery at grass-roots level. This aspect is significantly aggravated by limited SPS-dedicated human, technical and financial resources. Additionally, it appears that national interests often undermine efforts to address these issues at the regional level. Country representatives attend regional meetings but stick to national priorities and do not necessarily share SPS information collected during those meetings with other colleagues - or they move on to other business and meetings and well-intentioned regional recommendations are forgotten.

162. Several RECs have developed SPS policy frameworks which, to a greater or lesser extent, "mirror" the WTO SPS Agreement. Using the WTO language out of context raises legal concerns and, in the most extreme cases, raises the question of the utility of such frameworks. More importantly, however, remains the question of the practical implementation of such instruments. Because existing frameworks are relatively recent policy instruments, the author could not find evidence that those frameworks have achieved their aim, and heard similar opinions in this regard from others in the field. One of the reasons for a rather unclear picture is the – sometimes admitted – incapacity of the RECs to monitor implementation, due to the lack of resources both at regional and national levels.

163. Although the RECs have become aware of some concerns of their members about the implications of the SPS Agreement and its implementation, the role of the WTO SPS Committee seems to have been largely ignored and underestimated. The first requests for observer status were submitted to the WTO Secretariat at the end of 2009, and were granted on an ad-hoc basis in March 2010. The importance of the work of the Committee is related to the implementation of the WTO SPS Agreement, the functional links between the ISSOs and WTO and its implications on trade. Examples of instruments developed by the SPS Committee and the WTO Secretariat to facilitate implementation are the manuals and procedures to deal with the transparency provisions of the Agreement, and the guidance provided by the Committee to deal with the provisions on equivalence, regionalization and consistency.<sup>44</sup>

164. All experts agree with the need for harmonization of regional standards, guidelines and recommendations with the international standards. Although this analysis goes beyond the scope of this paper, concerns with the risks of potential overlap and/or unnecessary duplication have been voiced and deserve due attention. The availability of information on ISSOs websites facilitates the task of avoiding repetitions or mistakes, but validation by the ISSOs is advisable. Similarly, there are concerns with the issue of overlap among different SPS regional policy frameworks, especially when the same country is a member of more than one REC.

165. Capacity building and technical assistance activities are among the main responsibilities of the RECs and the AUC. Although most of them seem to have their own programmes/activities, they have a comparative advantage in their regions as partner organizations of international organizations and bilateral donors. Information suggests that coordinated efforts with regard to capacity building and technical assistance in recent years are improving. In addition, the approach taken seems to be increasingly "demand-driven" and oriented to "hands-on" aspects. Several studies and papers consulted illustrate this trend. Particularly welcome are approaches taken to help countries to meet their needs, while strengthening their ability to actively participate in the work of ISSOs (e.g. the PAN-SPSO project).

166. The limited information available does not allow a very precise analysis of RECs' SPS strategies. For those RECs that have developed regional policy frameworks, the implementation of these instruments is naturally part of their strategy. Regional harmonization is another important element of the strategies of some RECs that have developed SPS regulations. Capacity building and technical assistance is a third element. Regional SPS Committees have also been put in place and meet more or less regularly. However, their efficiency may be conditioned by the inexistence, or malfunctioning, of national coordination bodies, such as National SPS Committees. Possibly, the

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<sup>44</sup> See amongst others footnote 2.

absence of identifiable strategies illustrates the fact that several RECs and the AUC have not clearly defined specific action plans with regard to SPS issues.

## **B. RECOMMENDATIONS**

167. In light of the above-mentioned conclusions, the following recommendations to the AUC and the RECs in general are suggested:

### **(1) Ensure that regional policy frameworks focus on the most effective use of resources to enhance member states benefits**

Where regional policy frameworks are already in effect, the RECs should carefully review their practical utility, eliminating any duplication or contradiction with regard to the WTO SPS Agreement. If revision is not possible, means to address discrepancies through the implementation process should be identified. Those RECs which are in the process of developing frameworks should consider their practical utility and value added, taking into account the experience with existing frameworks, foreseeable implementation constraints and possibilities for more effective use of limited resources, and consider alternative approaches.<sup>45</sup> If RECs decide to pursue the development of such frameworks, discrepancies with the WTO SPS Agreement, as well as with other regional frameworks, should be avoided. In addition, the AUC should be involved in guaranteeing the smooth articulation and harmonization of the different policy frameworks, checking for possible inconsistencies that might result in unnecessary trade restrictions or conflicts among member states.

### **(2) Participate actively in the ISSOs and WTO SPS Committee, and develop the capacity for African countries to effectively participate**

Active participation in meetings of ISSOs and the SPS Committee is encouraged and those RECs which have not yet requested observer status are strongly encouraged to do so. Experience shows that the participation of RECs' representatives in the SPS Committee often facilitates the task of Member States, especially when accompanied by Geneva-based preparation sessions. Taking into account its increasing involvement in SPS issues and its continental scope, the AUC should also request observership in the SPS Committee. In this respect, developing the institutional capacity of African countries to effectively participate in the SPS Committee is an initiative that the AUC could undertake, perhaps in cooperation with the RECs.

### **(3) Assist with the strengthening and training of national coordination bodies**

The AUC and the RECs should promote regional and national coordination by taking the lead in organizing systematic preparation meetings of technical experts in advance of important ISSOs meetings and, whenever possible, develop continental/regional common positions on matters of common interest. The AUC and the RECs should also put a strong accent on the need for the creation or strengthening of existing national SPS Committees<sup>46</sup> and provide adequate training to officials who are or will be in charge of these committees.

### **(4) Increase awareness of SPS matters at the political and general public levels**

AUC and RECs efforts to increase political awareness at high political and decision-making levels should be intensified, as well as the sense of "ownership" among member states. SPS awareness-

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<sup>45</sup> By alternative approaches it is meant the establishment of priority actions in the light of Member States most significant shortfalls. It is recognized that legal structures are necessary and, if justified, the development of model legislation, including a basic model food safety law could also be envisaged.

<sup>46</sup> National SPS Committees with all their components, including representatives of the private sector and ISSOs national focal points, as well the WTO SPS Enquiry Points. See for instance the AU/IBAR "Proposed Modalities for the Formation/Strengthening and Operation of National SPS Committees". See also footnote 32 on the upcoming STDF study on this topic.

raising sessions – whenever possible illustrated by cost-benefit analysis examples – should be organized taking advantage of regional high-level meetings. In addition, when organizing regional workshops about the WTO SPS Agreement, AUC/RECs should advance from presenting just the content of the Agreement to the identification of real national SPS problems, and assist participants to elaborate strategies and/or action plans to address these. Strategies need to be clearly outlined and largely publicized in the regions and should be accompanied by simple and straightforward action plans to address the identified issues.

#### **(5) Focus capacity-building efforts on demand-driven activities, identified through capacity evaluations, and involve all relevant stakeholders**

The AUC and the RECs are privileged partners in SPS capacity building, technical assistance and training activities in Africa. As such, they should put emphasis on member states demand-driven activities. RECs should be aware of the added value of the use of SPS-related capacity evaluation tools developed by the ISSOs and strongly encourage those countries which have not yet applied them to do so.<sup>47</sup> In order to encourage economies of scale, RECs are strongly encouraged to continue to promote the organization of capacity building programmes involving the development of regional accreditation bodies, reference laboratories and the establishment of regional centers of excellence. The development of capacity building activities should also address private sector needs in member states. RECs should develop/encourage public/private partnership programmes enabling companies to comply with the food safety requirements of their larger export markets.<sup>48</sup>

#### **(6) Avoid multiplication of transparency requirements and use existing tools**

Multiple requirements for the publication and especially notification of SPS measures may easily become an unnecessary burden for member states and should be avoided. Before introducing, or implementing, additional transparency requirements, RECs should consider the various transparency tools developed by the WTO SPS Committee. See in this regard the WTO Members' transparency toolkit.<sup>49</sup> One suggestion is that RECs could helpfully receive, screen and disseminate WTO SPS notifications of interest to the region.

168. In addition, the following specific recommendations are also offered for consideration:

- An appropriate platform for the exchange and dissemination of information should be developed – preferably by the AUC in cooperation with the RECs – involving all suitable electronic means. As a first step, the SPS-related information available on the AUC and RECs websites should be organized and kept up-to-date.
- In an effort to boost regional trade, RECs should encourage member states to recognize each other's conformity assessment procedures. Similarly, the development of regional/continental certification schemes, e.g. COMESA's "Green Pass" should be encouraged.
- The AUC should establish a food safety dedicated structure, a technical body in the image of AU/IBAR and AU/IAPSC as one of its first priorities. DREA could be used as the coordinating body of the three technical bodies, with strengthened responsibilities for the development of a coherent food chain holistic approach.
- In order to avoid unnecessary duplication, RECs should only develop regional standards when necessary. The private sector should be consulted and the involvement of ISSOs,

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<sup>47</sup> See footnote 3.

<sup>48</sup> See for an example the PIP Programme, an European programme managed by the Europe-Africa-Caribbean-Pacific Liaison Committee (COLEACP) - <http://pip.coleacp.org/en/pip/11784-homepage>.

<sup>49</sup> [http://www.wto.org/english/tratop\\_e/spis\\_e/transparency\\_toolkit\\_e.htm](http://www.wto.org/english/tratop_e/spis_e/transparency_toolkit_e.htm).



including their validation of the regional standards, is highly advisable.<sup>50</sup> The AUC should monitor inter-regional harmonization.

- Finally, there is an urgent need for the reinforcement of SPS-dedicated human resources in the AUC (especially concerning the food safety component) and most RECs' Secretariats. As SPS awareness and implementation unfolds and new approaches to capacity building partnerships develop, needs increase sharply.

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<sup>50</sup> The pre-consultation of the material readily available in all ISSOs websites is strongly recommended.

## ANNEX 1

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## ANNEX 2

### PROJECT PREPARATION GRANT (PPG)

#### APPLICATION FORM

1. PPG title	Institutionalising SPS for agricultural health and food safety systems in Africa
2. Theme 1, 2 and/or 3	The PPG will notably address STDF theme 1: SPS capacity evaluation and planning tools, including the need for and implications of international standards and their application
3. Starting date	October 2009
4. Completion date	July 2009
5. Requesting organization(s)	<p>African Union Commission (AUC)</p> <p><u>Contact person:</u>  Dr. Sarah A.H. Olembo  Senior Policy Officer,  Department for Rural Economy and Agriculture,  African Union Commission, Box 3243,  Addis Ababa, Ethiopia  Email:ahono_olemboh@ymail.com</p> <p>Letters of support for the PPG have been received from:</p> <p>1) the AU Commissioner for Rural Economy and Agriculture, H.E. Tumusiime Rhoda Peace;  2) the AU Commissioner for Trade and Industry, H.E. Elisabeth Tankeu, and  3) the Director of AU/IBAR.</p>
6. Proposed consultant(s)	The AUC requests the STDF Secretariat to provide a shortlist of appropriate consultants to work with Dr Olembo in the implementation of the PPG. The STDF is also requested to assist in drafting the terms of reference for the scoping study.
7. PPG background and rationale	<p>Agriculture is a dominant economic sector in Africa, and SPS issues are central to trade and regional integration in Africa. However, in each African country today, there are still several fragmented basic SPS rules, in addition to more specific laws covering different sectors leading to varying enforcement, monitoring and verification of compliance. More so, SPS measures are today seen by African trading partners as a key barrier to trade. For this reason, it is of utmost importance that African producers are able to produce food products, which will meet the standards necessary to have access to international markets</p> <p>At the Lisbon Summit of 9 December 2007, EU and AU Heads of State and Government adopted the Joint Africa-EU Strategy and its first Action Plan 2008-2010. Part of this Action Plan is to</p>

	<p>strengthen African capacities in the area of rules, standards and quality control. The objectives are to 1) enhance the capacity of administrations, producers and exporters at all levels to meet the regulatory requirements of export markets within Africa and the EU (thus allowing diversification away from simple processed products) and 2) enhance the competitiveness of African agriculture and agri-food industry through particular attention to SPS issues.</p> <p>To this end, the Action Plan envisages several activities up to the end of 2010 including: the provision of training; rehabilitation and modernization of African testing and certification laboratories; negotiation of mutual recognition agreements (equivalence) on certain standards; creation of an information dissemination platform; improvement of technical knowledge; strengthen risk-based animal health, plant health and food safety systems; and support the participation of African countries in SPS standard setting organizations.</p> <p>Regional integration and trade are essential building blocks for development, growth, employment and poverty reduction in Africa. Hence, there is a need for common principles for official checks, controls and surveillance, which are essential to abolish internal border checks in Africa. Regional integration would reinforce common internal markets and reduce undue customs formalities and control restrictions. No doubt, as the integration process unfolds, the need will arise to strengthen capacity to face up to the challenges.</p> <p>To foster regional integration and trade in food and agricultural products, regional SPS frameworks have been adopted by Regional Economic Communities (RECs), i.e. the Common Market for Eastern and Southern Africa (COMESA), the Southern Africa Development Community (SADC) and the Economic and Monetary Union of West Africa (UEMOA) amongst others.</p> <p>The purpose and value added of these frameworks, however, should be carefully analyzed on a case-by-case basis – given the central role of the WTO SPS Agreement (which is binding upon all WTO Members) and of the standard-setting activities of Codex, OIE and IPPC. Apart from a potential risk that these regional SPS frameworks may contradict the SPS Agreement, they may also be contradictory among themselves (notably in light of overlapping membership in the RECs). Regional SPS frameworks can result in unjustified SPS barriers on products from outside of the region, and lead to unnecessary use of scarce resources duplicating work already undertaken at the international level.</p> <p>At a High Level Conference entitled "Institutionalising SPS in Africa: promoting Regional Integration in rules, standards, controls and procedures", organized jointly by the EC and the AUC in the context of the EC-funded programme "Better Training for Safer Food (BTSF) in Africa, suggestions were made on how to move this agenda forward through a step-wise approach:</p>
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	<ol style="list-style-type: none"> <li>1. Scope the current SPS policy framework in the RECs within the context of the international standards and the SPS Agreement;</li> <li>2. Present the outputs of this study at a consultative workshop for discussion and feedback. This workshop should include representatives of the RECs and concerned technical bodies and provide technical guidance for the development of Africa's SPS policy framework.</li> <li>3. Establish a consultative process to develop a draft legal framework to be validated at a workshop. That draft should be general enough to allow RECs to develop detailed frameworks;</li> <li>4. Adopt the draft framework by the AU policy organs;</li> <li>5. Follow up on implementation by the RECs.</li> </ol> <p>Some participants to the High level Conference viewed that in this context the establishment of a Steering Group consisting of AUC and RECs officials would be useful.</p> <p>Against this background, the AUC would like to request funding from the STDF to assist the organization in implementing steps 1 and 2 above, i.e. a scoping study and consultation workshop.</p> <p>Involvement of the STDF would be particularly useful given the technical expertise available at its partner organizations and its ability to play a role in mobilizing further resources, if needed, through its collaboration with the Aid for Trade initiative, the African Development Bank and through its contacts with the wider donor community.</p> <p>Based on the scoping study and a subsequent analysis and discussion among AUC and RECs officials, further decisions on steps 3 to 5 will be taken.</p>
8. Resultant project objectives	<p>The overall objective of the PPG would be to conduct a scoping study as a first step to inform and assess the necessity of further action needed in the SPS area at AUC and RECs level. Specifically, the study should:</p> <ol style="list-style-type: none"> <li>1) assess existing SPS frameworks/strategies/action plans at RECs level (in terms of their value added over and above the SPS Agreement, contradictory provisions, etc.);</li> <li>2) assess current tasks and responsibilities of the AUC and the RECs in the SPS area;</li> <li>3) provide recommendations on the future role of the AUC and RECs in the SPS area - including a description of follow-up actions to be taken at RECs and AUC level in light of steps 3-5 above (steering group, platform to exchange and disseminate information, necessity of developing an overarching SPS policy framework for</li> </ol>



	Africa, etc.).
9. PPG outputs	<p>PPG outputs include:</p> <ol style="list-style-type: none"> <li>1) scoping study with concise recommendations on follow-up actions;</li> <li>2) consultative workshop including a workshop report</li> </ol>
10. PPG activities	<p>The following activities are envisaged:</p> <ol style="list-style-type: none"> <li>1) drafting terms of reference by the AUC/STDF, selection of consultant by the AUC (upon submission of shortlist by STDF) and contracting of consultant through STDF</li> <li>2) undertaking scoping study (combination of desk study and targeted missions to selected RECs and the AUC to interview key stakeholders)</li> <li>3) organization of a <u>two-day</u> consultative workshop (in September 2009 back-to-back with the second Steering Committee meeting of the EC-funded PAN SPSO programme to be hosted by AU/IBAR in Nairobi); This would save a significant amount of time and resources – as all the key stakeholders (AUC, RECs, ISSOs, WTO/STDF will be present at that meeting). Hence, no additional travel expenses would be involved. The AUC (Dr Sarah Olembo) would be responsible for organizing this event - in close consultation with AU/IBAR.</li> <li>4) presentation of the study and its conclusions and recommendations to the STDF Working Group in December 2009 for further consideration and action. Further dissemination could also take place through the WTO SPS Committee, the STDF website, STDF partners and donors, etc.</li> </ol>
11. Timetable	<p>The PPG should be implemented during the second half of 2009. The precise timetable of activities will depend on the availability of the selected consultant. The scoping study should be done in the months of July and August.</p>
12. Private/public sector co-operation	<p>There is no concrete private sector involvement expected in the implementation of the PPG, i.e. the scoping study and the consultative workshop.</p> <p>The private should be actively involved in follow-up actions, if any, such as the possible development of an overarching African SPS strategy.</p>
13. Budget	<p>The AUC requests the STDF Working Group to approve up to <u>US\$ 30,000</u> to implement the aforementioned activities.</p> <p>The bulk of this amount will be allocated to pay the consultant (fee, travel expenses, etc.). A further breakdown should be available upon determination of the terms of reference. An additional amount</p>

	may have to be used to pay for additional subsistence allowance not covered by the PAN SPSO programme. This should be discussed by the AUC directly with AU/IBAR.
14. Non STDF contributions	AU/IBAR will contribute in-kind to the implementation of the PPG by providing meeting room facilities, coffee/lunch and transport facilities for the consultant and for participants in the workshop. Overall responsibility for the organization of the workshop will be of Dr Sarah Olembo from the AUC.

## ANNEX 3

### CONSULTANT TERMS OF REFERENCE

#### **Background**

In June 2009, the STDF Working Group approved a project preparation grant (PPG) requested by the African Union Commission (AUC) entitled "Institutionalising SPS for agricultural health and food safety systems in Africa" ([Appendix 1](#)). The objective of the PPG is to conduct a scoping study on existing regional SPS policy frameworks in Africa and provide recommendations on the future role and actions to be taken by the AUC and the Regional Economic Communities (RECs) in the SPS area.

The request followed discussions at a High Level Conference entitled "Institutionalising SPS in Africa: promoting regional integration in rules, standards, controls and procedures", organized jointly by the AUC and the European Commission in the context of the EC-funded programme "Better Training for Safer Food (BTSF) in Africa.

Following consultations with the AUC, Mr. João Manuel G. A. de Magalhães was selected as the consultant to conduct the aforementioned scoping study.

#### **Description of tasks**

Under the overall supervision of the STDF Secretariat, and in close collaboration with the AUC and other relevant stakeholders, the consultant shall conduct an analysis of the existing SPS policy frameworks at the level of the Regional Economic Communities (RECs) in Africa. In particular, the consultant shall;

- i. collect and analyze the relevant SPS frameworks, protocols, strategies, action plans, etc. adopted, or in the process of being adopted, by the RECs, within the wider context of the WTO SPS Agreement and the international standards set by the Codex Alimentarius Commission (CAC), the World Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC);
- ii. collect and analyze other relevant information, such as SPS needs assessments conducted at the regional level, and including information provided by the AUC, as well as key multilateral and bilateral donor organizations funding and/or implementing projects and programmes at the regional level;
- iii. identify and interview (by e-mail and telephone) key SPS officials within the RECs, the AUC and other relevant organizations with a view to obtain and analyze the information as outlined under i) and ii) above;
- iv. participate in two regional one-day meetings convening SPS officials of the RECs and the AUC on the margins of the Steering Committee of the EC-funded "PAN-SPSO" project to be held in Nairobi, Kenya at AU/IBAR:
  - the first meeting will take place on 6 October 2009 to introduce the planned scoping study, present preliminary findings and obtain further input from the RECs and the AUC;
  - the second meeting will take place in the first half of 2010 (date to be confirmed) to present and validate the draft study and its recommendations, insert additional comments where appropriate, and agree on the follow-up actions to be taken;

- v. draft the scoping study and present the final document - including concrete recommendations on further actions to be taken - in accordance with the reporting format in Appendix 2 at a date to be jointly agreed by the consultant and the STDF Secretariat - but in no event later than 30 June 2010 close of business.

### **Regional meetings**

The AUC shall be responsible for the organization of the two one-day regional meetings in Nairobi, including sending invitations where necessary, in close collaboration with AU/IBAR. This includes the following expenses:

- additional subsistence allowance for the participants from the RECs (insofar not already covered by the PAN-SPSO project);
- travel and subsistence allowance for participants of the AUC (insofar not already covered by the PAN SPSO project);
- meeting room facilities at AU/IBAR and provision of lunch and coffee breaks.

### **Contact person in the AUC**

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## Membership of RECs and their observer status in the WTO SPS Committee and ISSOs<sup>52</sup>

Regional Economic Community	Countries	WTO SPS	Codex	OIE	IPPC
CEN-SAD	Benin, Burkina Faso, Central African Republic, <b>Chad</b> , <b>Comoros</b> , Côte d'Ivoire, Djibouti, Egypt, <b>Eritrea</b> , Gambia, Ghana, Guinea, Guinea Bissau, <b>Liberia</b> , <b>Libya</b> , Kenya, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, <b>Sao Tome and Principe</b> , Sierra Leone, <b>Somalia</b> , <b>Sudan</b> , Togo, Tunisia	Yes	Yes	No <sup>53</sup>	No <sup>54</sup>
COMESA	Angola, Burundi, <b>Comoros</b> , Democratic Republic of Congo, Djibouti, Egypt, <b>Eritrea</b> , <b>Ethiopia</b> , Kenya, <b>Libya</b> , Madagascar, Malawi, Mauritius, Namibia, Rwanda, <b>Seychelles</b> , <b>Sudan</b> , Swaziland, Uganda, Zambia, Zimbabwe	No	No	Yes	No
EAC	Burundi, Kenya, Rwanda, Tanzania, Uganda	No	No	No	No
ECCAS	Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Congo DR, <b>Equatorial Guinea</b> , Gabon, Rwanda, <b>Sao Tome and Principe</b>	No	No	No	No
ECOWAS	Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, <b>Liberia</b> , Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo	Yes	Yes	Yes	Yes
IGAD	Djibouti, <b>Eritrea</b> , <b>Ethiopia</b> , Kenya, <b>Somalia</b> , <b>Sudan</b> , Uganda	No	No	No	No
SADC	Angola, Botswana, Congo DR, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, <b>Seychelles</b> , South Africa, Swaziland, Tanzania, Zambia, Zimbabwe	Yes	Yes	Yes	Yes
WAEMU	Benin, Burkina Faso, Cote d'Ivoire, Guinea Bissau, Mali, Niger, Senegal, Togo	Yes	?	?	?

<sup>52</sup> Countries that are not WTO Members are highlighted in bold. Countries that are in accession to the WTO are highlighted in bold and italic. The African Union (AU) has observer status in the ISSOs but not in the WTO SPS Committee.

<sup>53</sup> Request for observer status pending.

<sup>54</sup> Request for observer status pending.

The Standards and Trade Development Facility (STDF) is a global programme in capacity building and technical cooperation established by the Food and Agriculture Organization of the United Nations (FAO), the World Organisation for Animal Health (OIE), the World Bank, the World Health Organization (WHO) and the World Trade Organization (WTO).  
More information is available at: [www.standardsfacility.org](http://www.standardsfacility.org)