


Biosecurity Legislative Framework for Belize

Delilah A. Cabb–Ayala B.Sc. M.Sc.


Coordinator

SPS Enquiry Point, Belize Agricultural Health Authority


Outline

- ▶ Belize's Experience in developing its *biosecurity* legal framework
 - ▶ Approach taken
 - ▶ Levels of consultation (support)
 - ▶ Challenges
 - ▶ Opportunities
 - ▶ Recommendations
 - ▶ Conclusion
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Introduction

- ▶ 1994 a proposal was submitted to the Government of Belize for the modernization of the agricultural health services
 - ▶ IICA was asked to conduct an agricultural sector study to determine the viability
 - ▶ The proposal is for a single agency to be established: the National Agricultural Health Services of Belize
 - ▶ Loan is obtained from IDB for the modernization of the agricultural health services (estimated \$3.1 Million USD)
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Belize Agricultural Health Authority

- ▶ Enabling legislation drafted in 1994
 - ▶ Belize became a member of WTO 1995
 - ▶ Elections in Belize are held in 1998 and a new Government is elected
 - ▶ Name of the organisation is changed from National Agricultural Health Services to the Belize Agricultural Health Authority
 - ▶ Belize Agricultural Health Authority Act is enacted in 1999 (No. 47 of 1999)
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Components of the IDB Project

- ▶ Critical component is the review of the mother Act establishing the organization given the time it was drafted and then signed into law
 - ▶ First Review conducted in 2002–2003 by Dr. Black (CanEd Consultations)
 - Enabling provisions related to the functions of the Authority
 - Harmonization with Internationally accepted protocols (rights & obligations as WTO Member)
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Dr. Black –Can–ED : Legal Review

- ▶ **Main Areas identified:**
 - ▶ **Definitions (amendments & new inclusions)**
 - ▶ Definition of diseases (definition vs list in schedule)
 - ▶ Certification of Organic Production
 - ▶ Food Safety (holistic approach)
 - ▶ Fertilizers & feeding stuffs
 - ▶ GMOs/LMOs
 - ▶ Intellectual Property Rights (specimen)
 - ▶ MRLs
 - ▶ Quarantine regulation & disease protocols
 - ▶ Animal Health Regulations
 - ▶ High Seas Fishing Vessels
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FAO: Pest Free Areas– Legal Review

- ▶ 2003: TCP/RLA/2918(A) for the ESTABLISHMENT OF PEST FREE AREAS FROM MEDFLY *CERATITIS CAPITATA* – PHASE II (of TCP/RLA/0172):
- ▶ Two main objectives:
 - Review and analyze the existing plant protection legislation to determine whether it needs updating and to assess the objectives to be achieved by modernizing it.
 - taking into account the legislative/regulatory requirements for supporting pest-free areas, and the phytosanitary/trade obligations under new international agreements.

FAO/TCP/RLA/2918(A)

- To comply with the IPPC certain amendments to the BAHA Act were proposed (inclusion of the following)
 - ▶ Establishing control measures for endangered areas;
 - ▶ Ensuring phytosanitary security of consignments after certification and prior to export;
 - ▶ Undertaking research and investigation in the area of plant protection; and
 - ▶ Overseeing training and development of staff.
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FAO/TCP/RLA/2918(A)

- ▶ A few phytosanitary terms in the Law would need to be defined
 - Plants
 - Plant products
 - Quarantine Pests
 - Regulated articles
- while other definitions in the Act would need to be made consistent with the Glossary of Phytosanitary Terms: e.g. living beneficial organism vs biological control agent

FAO/TCP/RLA/2918(A)

► Mandate of the Authority

- Agricultural health means ‘animal health, plant health, quarantine;
- No explicit mandate for Food Safety yet provisions to make legislation are included under Section 86 (1) : HACCP; Sanitary Certificates; Enter into agreements with other entities for the proper functioning of the Authority

FAO/TCP/RLA/2918(A)

Functions of the Authority


▶ **To carry out risk analysis**

- International obligation calls for the provision to be explicit and to indicated that it will be carried out to determine pest prevalence and establish conditions of importation for imported products;

▶ **Phytosanitary security of consignments**

- The Act does not provide any legal basis indicating BAHA obligation to ensure the phytosanitary security of consignments after certification;


Government of Belize Request to FAO: TCP/BZE/3003

- ▶ In 2003 following the completion of the OIRSA Regional Project; the Government of Belize solicited assistance from FAO for a Project to conduct a comprehensive review of the BAHA Act;
 - ▶ A team of experts came: FAO/Codex, OIE, IPPC, FAO Legal Expert and a National Attorney-at-Law
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TCP/BZE/3003: Approaches to Legal Review

- ▶ **Option 1:** Do not amend the BAHA Act, just elaborate and enact any needed Statutory Instrument to cover matters not properly covered in the Act or in existing Sis
 - The disadvantage is that BAHA is already acting beyond its powers for example in food safety and aquatic animal health
 - Implications: challenge in court by stakeholders or trading partners

TCP/BZE/3003: Approaches to Legal Review

- ▶ **Option 2:** enact a new Biosecurity Act to be administered by BAHA, this will involve only the most minor changes to the BAHA Act, but no changes to any of the organizational or administrative part of the Act
 - Several advantages
 - Disadvantage is the risk of some stakeholders not having enough time to examine changes more closely
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TCP/BZE/3003: Approaches to Legal Review

- ▶ **Option 3:** amend the BAHA Act for the purpose of correcting the most evident and significant weaknesses, such as the lack of authority to control food safety and the absence of specific provisions on aquatic animal health;
 - ▶ **Option 4:** amend the BAHA Act in detail, taking into account all past and present recommendation of IDB, and FAO on plant health, animal health and food safety
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FAO Request for Guidance on Approach to Legal Review

- ▶ Advantages of Options 3 & 4:
 - Would make BAHA mandate clear in areas of food safety and aquatic animal health
 - In Option 4 it would improve and update legislative provisions dealing with animal and plant health
- ▶ Disadvantages
 - Once the BAHA Act is opened up for scrutiny the process may take off into areas not originally anticipated


Consultations with BOD

- ▶ The four options were thus presented to the Board of Directors;
 - ▶ (24 Aug 2006) The Board of Directors agrees that option 2 is the best since they do not agree that the administrative and organizational structure of the organization should be changed.
 - ▶ FAO reviews the law and five draft bills are proposed: animal health, plant health, food safety, biosafety (incomplete) and an abridged BAHA Act;
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Challenges

- ▶ The draft bills are completed in early 2007; consultations are held with all stakeholders throughout the process;
 - ▶ Since in 2007 political campaigns begin there is no support for the passing of new laws;
 - ▶ Elections are held in 2008, a new government is elected
 - ▶ The new Minister is immediately sensitized; he requests a new series of consultations
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Challenges

- ▶ In 2008, consultations are held again;
 - ▶ As the Government has just won, there is no political will to pass the new laws;
 - ▶ In 2009, BAHA applies to the EU for a Project in capacity building via the Commonwealth Secretariat in London;
 - ▶ A grant of \$200,000.00 EUROS is approved for that purpose;
 - ▶ One of the activities identified is the review of the Food Safety bill to streamline it along EU regulations
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EU Legal Review: Enhancement of National SPS Capacity 2009

- ▶ Review of Food Safety FAO Draft Bill
 - Advantage is that all provisions are structured in a chronological order which makes it easier for the designation of responsibilities among the relevant Ministries or Agencies;
 - Easier to understand and implement
- ▶ The Ministry of Health is part of the team
- ▶ Guidance requested
 - on whether the Bill it is passed under Ministry of Health or BAHA


2010 Minister of Agriculture: Request for Legal Review –

- ▶ Administrative component of the Act reviewed
 - ▶ Areas identified included:
 - Technical and Advisory powers of the BOD
 - Office Management duties of the MD
 - Borrowing powers of the Authority
 - Pension
 - Official importation among others
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2011: New Request to the BOD

- ▶ The BOD was presented with a background on all the reviews of the BAHA Act in addition to the new request from the Minister of Agriculture;
 - ▶ Guidance sought:
 - Which options to take: FAO has four options
 - In regards to Food Safety: which Ministry will be responsible: the example of CFIA and Health Canada in regard to Food Safety is provided;
 - Ministry of Agriculture agrees to consult internally (modernization Health Act & Intern. Health Reg.)
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Opportunities

- ▶ The Minister of Agriculture is in support;
 - ▶ Cabinet has been sensitized;
 - ▶ New animal identification system and surveillance for Bovine TB, Bovine Brucellosis, BSE demand amendments to Animal Health component of the Act;
 - ▶ EU is involved as donor agency and requests to review Belize SPS laws;
 - ▶ Board has recommended FAO option 4 so as not to delay the process further
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Next Steps

- ▶ Draft bills are already with the person responsible for drafting regulations;
 - ▶ The **Animal Health bill** has been reviewed internally to ensure that it consistent with our international obligations under the OIE;
 - ▶ **Is ready for notification to WTO** (internal deadline is by Wednesday of next week);
 - ▶ Plant Health Bill also ready to be notified;
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Next steps

- ▶ **Biosafety Bill is incomplete** as it does not reflect the National Biosafety policy;
 - Presently in the process of identifying an attorney to complete the draft that will then need to be available for consultation with stakeholders;
- ▶ **Food Safety bill is complete and ready for notification**, however we are still awaiting the response from Ministry of Health (deadline for response to BAHA was June 2011)
- ▶ **Abridged BAHA bill – review is also complete**


Recommendations

- ▶ Solicit international assistance to ensure that the review is complete (also facilitates compliance with both national and international obligations);


Recommendations

- BAHA's approach was to obtain assistance from:
 - FAO: Legal Expert, Experts from the 3 sisters and a local attorney;
 - donor agency (Food Safety – EU)
 - and trading partners (EU and Mexico – animal health)
- this allows for harmonisation and greater support from the Government


Recommendations

- ▶ Be persistent – if government changes –start the process all over;
 - ▶ Identify and use every opportunity
 - ▶ Market Access (new USA food law, EPA)
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Extract presented to BOD

- ▶ The BAHA Act has been reviewed extensively
 - ▶ New Demands are being placed on Belize especially in matters related to trade; and the rightful obligation to contribute to food safety and food security
 - ▶ Urgent matters include: food safety law to help us deal with new demand arising out of the USA New Food Law (USA – major trading partner; need to harmonize legislation with the EU; need to pass enabling legislation to facilitate trade with Mexico.
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Conclusion

- ▶ The experience of Belize has shown that it is best to have separate laws for food safety, animal health, plant health and biosafety respectively and one law to establish the Authority;
 - ▶ It makes the implementation process easier and in terms of amendment or enactment it is also less challenging;
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Conclusion

► Any questions?

