



WTO/IDB-INTAL WORKSHOP
WTO AGREEMENT ON SPS MEASURES FOR
CARIBBEAN COUNTRIES
BARBADOS 26-29 JULY 2011

SPS REGULATORY FRAMEWORK

***DEVELOPMENT AND CHALLENGES IN THE CARIBBEAN
COMMUNITY (CARICOM)***

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The SPS scope directs Regulatory Framework

The SPS Agreement is aimed at all measures directed to protect:

- human or animal life or health from food-borne risks (risks arising from additives, contaminants, toxins or disease-causing organisms in their food);
- human life or health from animal or plant-carried diseases;
- animal and plant life or health from pests, diseases or disease-causing organisms;
- the territory of a WTO Member from damage caused by the entry, establishment or spread of pests

Includes measures taken to protect the health of fish and wild fauna, forests and wild flora.



Food Safety Act

- An ACT to provide for the safety of food intended for human consumption, to ensure its quality and safety; and to provide for matters connected therewith [or incidental thereto].

Supported by Regulations as:

- Food Safety (Food Handling Establishments and Caterers) Regulations;
- Food Safety (Food Production and Processing) Regulations;
- Food Safety (Food Inspections) Regulations;
- Food Safety (Sampling) Regulations;
- Food Safety (Street Vending) Regulations;
- Food Safety (Slaughterhouse) (Hygienic Practices) Regulations;
- Food Safety (Meat) (Post Mortem) (Boneless Meat) Inspection Regulations,



Food Safety Act

Notwithstanding the generality of subsection (1), this Act shall not apply to –

- food that is produced,
- imported or exported for private consumption;
- food that is brought into [] in ship or aircraft stores and used for sailors, crew or passengers on board that ship or aircraft;
- food that is transported through [] that is not intended for sale or consumption in [];
- activities related to the cultivation, reaping, harvesting or other preparation of plants regulated under the Plant Protection Act; and..
- activities related to the raising, slaughter or other preparation of animals regulated under the Animals (National and International Movement and Diseases Prevention) Act;



PART II ADMINISTRATION

- Establishment of Food Authority.
- Responsibilities of Food Authority.
- The Food Authority shall provide for the administration and enforcement of this Act.
 - the Food Authority shall -
 - in **consultation** with other governmental entities, regional and international bodies and persons, establish a coordinated and integrated system to protect, enhance and ensure food safety;
 - **enforce** the provisions of this Act and enhance the legal and institutional framework for food safety;



PART II ADMINISTRATION

- Establishment of Food Authority and Responsibilities of Food Authority.

- [in conjunction with the Bureau of Standards] ensure **harmonization** of national food safety standards **with regional and international** food safety standards;
- implement the aspects of the WTO Agreement on SPS relating to food safety in relation to-
 - the import and export of food;
 - carrying out of inspections for the purpose of preventing food safety risks;
 - providing justification to other countries concerning sanitary measures applied, either through risk analysis or by reference to Codex Alimentarius or HACCP principles;
 - issuing notices of non-compliance with import requirements;
 - notifying sanitary measures to other countries in accordance with international obligations; and
 - providing information regarding import and export requirements on request from any international, regional or local food safety organization or person;



PART II ADMINISTRATION

- strengthen policy, planning and services capacity of private and public sector institutions in the area of food safety;
- strengthen national capacity to develop and **sustain effective food borne disease surveillance** and response programmes;
- develop food safety training programmes for food industries, food processing plants, street food vendors, the tourism sector and other food handlers;
- develop **training programmes for inspectors** in modern food safety systems;
- establish **databases** for imported and domestic foods[, including inspections];
- develop national food handler training and **certification programmes** for the retail, processing and agricultural industries;
- ensure the training of **laboratory staff** in current analytical methods and quality control programmes;
- enhance the awareness of food borne diseases and effective intervention strategies;
- represent the **country's interests** at meetings, workshops, and seminars on food issues; and
- ensure compliance in all matters and activities deemed necessary to achieve the objectives of this Act.



PART II ADMINISTRATION

- Agreements and Memoranda of Understanding.
- Training requirements
- Establishment of a National Food Safety Committee
- Appointment of Food Analyst and published list inspectors



PART III

INSPECTORS, SEIZURES AND FORFEITURE

- Approaches to enforcement
 - The Food Authority shall adopt a graduated approach to enforcement to enforcement.
 - As a first step towards ensuring compliance, the inspector shall adopt an educative approach and discuss the requirements of the Act relating to food safety risks, hazard analysis, supervision, instruction and training with the operator.
- Inspection Powers e.g. entry, seizures, disclosure
- Analysis and examination – certificates and reports



Inspections

- Closure of facilities
- Follow up visits
- **PART IV - REGISTRATION AND LICENSING REQUIREMENTS**
 - Requirements –registration, licensing, permits, health certificates, id cards
- **PART V STANDARDS**
 - **Minister in consultation and what is the bases – Codex...**
 - **Renewals of permits, suspensions**
- **PART VI: PARTICULAR DUTIES OF OPERATOR AND FOOD HANDLER**
 - **obligations upon operators, to food borne diseases, falsely describe food,**



PART VII IMPORT AND EXPORT OF FOOD

- Certificate of Compliance
- Food samples, testing, payments, release
- Food hazard or diseases in premises
- Non compliance
- Emergencies



PART IX OFFENCES AND PENALTIES

- **General offences**
- **Regulations**



Plant Protection Bill

Seeks to, amongst other things, update the provisions of the existing law to make them more consistent with [] obligations under the new revised text of the International Plant Protection Convention, approved by the Food and Agricultural Organization of the United Nations Conference at its 29th Session in November 1997 (revised Convention), by:

- facilitating the movement of plants in [],
- preventing, controlling or removing pest infestation of a plant or plant product in[],
- helping other jurisdictions that are parties to the Plant Protection Convention
- prevent, control or remove plant pests and diseases pest infestations.



PART II, ADMINISTRATION, CLAUSES...

- *Clause 3* provides for the administration of the Act by the responsible Minister.
- *Clause 4* the Minister is authorised to designate a National Plant Protection Organisation or NPPO and advise the Secretariat of the Commission on Phytosanitary Measures established under the Convention (the IPPC Secretariat) of the person that has been so designated.
- *Clause 5* stipulates the functions of the NPPO, which are primarily functions established under the revised Convention.
- *Clause 6&7* provide for appointment and duties of inspectors
- *Clause 8* authorises the NPPO to designate official laboratories and analysts for the purposes of the Act.
- *Clause 9* provides for the establishment, composition, procedure of a Plant Protection [Board/ Committee]. Individuals from a diverse group of disciplines are expected to comprise that [Board/ Committee].



PART III: IMPORTS, CLAUSES 15–22

- *Clause 15* seeks to provide for the regulation by the NPPO of the importation of a "plant" "plant product" and "regulated article".
- *Clause 16* provides for the issue of an import permit in accordance with international stds.
- *Clauses 17 and 18* provide for the inspection at the port of entry, detention, notification,...



PART IV, EXPORTS, CLAUSES 23 -24

- Provision is made for the conditions under which a plant, plant product and other regulated article may be exported and for its inspection.
- provision is also made for the issue of a phytosanitary certificate for export.



PART V, CONTAINMENT AND ERADICATION OF PESTS, CLAUSES 25- 32

- *Clauses 25 imposes a duty on the occupier of any premises on which a quarantine pest is present or is suspected to be present to immediately notify the NPPO.*

- *Clauses 26, 27 28 29 and 30 provide for:*
 - *the declaration of quarantine,*
 - *the procedure to be adopted when a pest is on premises,*
 - *the issue of a quarantine notice and the*
 - *declaration of phytosanitary emergency on the basis of an inspection carried out under the Act or an analysis of samples.*



PART II ADMINISTRATION

- *Powers of the Minister*
- *Designation of NPPO*
- *Functions of the NPPO*
- *Appointment of inspectors*
- *Duties of an inspector*
- *Designation of laboratories and analysts*
- *[Establishment, composition, procedure of Plant Protection [Board /Committee]*
- *Disqualification of members of Plant Protection [Board /Committee]*
- *Resignation of members of Plant Protection [Board //Committee]*
- *Advisory role of [Board/ Committee]*
- *Sub-committees of [Board/ Committee]*
- *Phytosanitary Emergency Fund*



PARTS IV and V

■ ***EXPORTS***

- *Restriction on export*
- *Inspection of exports*

■ ***CONTAINMENT AND ERADICATION OF PESTS***

- *Duty of occupier to notify NPPO*
- *Declaration of quarantine*
- *Procedure when quarantine pest is on premises*
- *Service of quarantine notice in absence of occupier*
- *Duration of quarantine notice*
- *Declaration of phytosanitary emergency*
- *Lifting of quarantine*
- *Declaration of pest free or low pest prevalence area*



PART VI ENFORCEMENT

- *Entry and search by an inspector*
- *Seizure and notice of seizure*
- *Storage or removal of affected items*
- *Confiscation and disposal of unclaimed items*
- *Offences*
- *Liability of officials*
- *Penalty*
- *Forfeiture*
- *Notice to offender*
- *Limitation on liability*
- *Compensation*

■ ***PART VII MISCELLANEOUS***

- *Documents*
- *Regulations*
- *Repeal and Savings*
- *Act to bind [State /Crown*



Context to Regulatory Framework

- Context of the Regional and International Obligations
- For example
- The object of the Draft CARICOM Harmonised Food Safety Bill and Regulations made there-under is to harmonise the sanitary measures for food safety between Member States of CARICOM and the Members of the WTO, on the basis of international standards, guidelines and recommendations developed by the Codex Alimentarius as was agreed by Members of the WTO under the WTO Agreement on SPS Measures and at the same time
- complying with Articles 57 paragraph 1 (k) and 74 paragraph 2 (e) of the Revised Treaty of Chaguaramas Establishing the Caribbean Community (CARICOM) including the CSME as they relate to harmonization of SPS measures.



Context to Regulatory Framework

- Chapter 57 1 (k) – is to create an efficient SPS regime

- Article 74 – Obligation of State to put in place the regulatory framework for SPS

- COTED
 - Expansion of trade within the CSME
 - Food security needs

- JI – alleviation of binding constraints



Process

- Technical expertise – collaboration AH, PH, FS expert –
 - Very long process
 - Different Ministries and turf issues
 - Consensus

- CPCs – built upon the previous drafting – PAHO, USAID, FAO, IICA and CCS/CLDF
 - Tedious process
 - Change in CPCs – sensitize
 - Authority

- Sub-Committee on Harmonisation of Laws



Process

- LAC – Attorneys General
 - Legislative agenda of the Community
 - Lack of quorum
 - Decisions could not stand

- COTED – Council of Ministers
 - Policy guidance
 - Setting up administrative structures, monitoring, implementation, powers
 - Financing

- Heads of Government

- National Governments
 - Nuances
 - Adoption – enactment
 - Implementation –(Resources)



Challenges

- Driving the Legislation Initiatives
 - Previously dedicated process –CLDF which had its Own resources
 - Timing – overcrowded Community Legal Agenda
- Technical expertise
- the CPCs – intense discussions -
- Sub-Committee on Harmonisation of Laws
- LAC
- COTED
- Heads of Government
- Timing
- Resources



THANK YOU