



TBT PROGRAMME
OVERCOMING TECHNICAL BARRIERS TO TRADE



ACP-EU TBT Programme

The Project Objectives and Main Results

*Johannesburg, South Africa
23 and 24 January 2017*



TBT PROGRAMME
OVERCOMING TECHNICAL BARRIERS TO TRADE



The Project Team, Project Objectives and Project Results

The Project Team

Name	Designation	Roles and Responsibilities
Dr Mike Peet	KE 1 – South Africa Team Leader / TBT	Project Management, Expertise in TBT related issues and on-site interface with the Project Beneficiaries.
Dr Ignatius Ndzingo	KE 2 – Botswana SPS	Expertise in global, African and SADC regional SPS related issues and on-site interface with the project participants
Ms Ramona Kettenstock	BKP Development Research & Consulting GmbH – Munich, Germany	Back office support and project management and interface with the Project Beneficiaries.
Ms. Boitumelo Sebonego	CTA: EPA SADC Directorate, Trade Industry, Finance and Investment (TIFI)	SADC liaison with the Ministries of Trade in each of the 5 EPA member states and coordination of SADC secretariat inputs
Ms. T. Tsekoa	Programme Officer: EPA SADC Directorate, Trade Industry, Finance and Investment (TIFI)	Assisted with Liaison with the Ministries of Trade in each of the 5 EPA member states and coordination of SADC secretariat inputs



Background

The EPA negotiations between the EU and the SADC EPA Group concluded in mid-July 2014 and were subsequently ratified on the 10th October 2016. There is a therefore now a legally binding requirement for each of the EPA Governments to fulfil their responsibilities related to implementing the Agreement to obtain the desired positive impacts on trade and sustainable development.

The SADC EPA Group is a very diverse set of countries that brings together least-developed countries (LDCs), Lesotho and Mozambique, together with middle to upper income countries such as Botswana, Namibia, South Africa and Swaziland. Prior to the negotiation and adoption of the EPA, least-developed African, Caribbean and Pacific (ACP) countries, including the 5 SADC EPA countries that are the focus of this project, already enjoyed duty and quota-free market access to the EU for most products. The elimination of EU tariffs and quotas has not significantly improved the export opportunities for products from these countries.

This project specifically focuses on SPS and associated TBT issues and needs related to addressing gaps and shortcomings in existing legislative, policy and regulatory frameworks and operational infrastructure as compared to the SPS and related TBT requirements contained in the EPA.



Project Objective

The purpose of the project is to provide support for the implementation of the EPA in the area of SPS and associated TBT, including development of national level plans to address gaps and shortcomings in existing legislative, policy and regulatory frameworks as compared to requirements in the SADC-EU EPA around SPS and TBT measures.

These plans are to inform project proposals for funding either by the Governments and / or other interested parties. Furthermore, the outputs are intended to provide input material for undertaking sensitization workshops, at the regional level, for policy makers and non-state actors.



The Project Results

The following results were expected to be achieved:

Result 1 – Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states;

Result 2 - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT; and

Result 3 – Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding).



Project Result 1

Result 1 – Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states;

- An analysis of the legislative frameworks of the five SADC EPA Countries shows that there are some notable strengths. Certain elements are already, and comprehensively, addressed such as import and export of animals and animal products. The extent and technical implementation related details obviously differ from country to country.
- The study has identified a critical lack of supportive regulations which are required to specify the technical, procedural and administrative modalities to implement legislation. It is also important that the relationships between the different administrative levels are defined and the coordination mechanisms needed to ensure coherent and effective implementation on the ground are suitably specified.
- The insights gained through the background research were used to create a set of seven questionnaires, from a regulatory and private sector perspective. These were utilised during the subsequent field missions to interrogate SPS and related TBT issues related to animal and animal products, plants and plant products and fisheries and fish related products. A more generic, private sector focused, questionnaire was also refined and finalised during the course of the field missions due to feedback received, and experience gained, during the initial interviews.



Project Result 2

Result 2 - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT;

- There are several issues that currently limit implementation or negatively impact on the utility of the legislation to achieve the intended policy objectives. Most of the enabling provisions are inadequate which leaves the relevant national competent authorities without the explicit legal mandate required for them to appropriately discharge their responsibilities.
- In some of the EPA states, a serious concern is the absence of a formal chain of command in the veterinary domain. This weakens the Veterinary Authorities in these countries, and affects their capacity for animal disease detection and control, particularly in the case of trans-boundary and trade sensitive animal diseases and zoonoses where rapid and effective response at every administrative level is critical.
- In some EPA Member States, formal plant and animal pest and disease surveillance systems, including communication protocols, are lacking preventing the early detection, control and reporting of plant and animal pest and disease occurrences.



Project Result 2 – Cont.

- In some EPA Member States a formal chain of command, together with mechanisms to coordinate and enforce implementation, was evident. In others, this was not the case. Feedback obtained from stakeholders regarding national legislative frameworks was that the authorities have the authority and capability to participate in the preparation of national legislation. A weakness is however evident in the subsequent preparation and formalisation of supportive regulations and in the implementation of the regulations once approved. Both of these subsequent activities can take several years.
- A previous project, “Analysis of the EU-SADC EPA: Harnessing opportunities presented by the Agreement for Market Access and Trade Facilitation (2016),” has already identified some of the EPA member state SPS and TBT related issues that could have an impact on their ability to exploit the market access and related capability enhancement opportunities now made available by the EU – SADC EPA. Those that are also relevant to the current project have been detailed in each of the 5 separate national reports.
- Further SPS and related TBT challenges and issues are identified in the 5 country reports and further described in the higher level national reports. These are a major impediment on the ability of SADC EPA member state producers and traders to access other SADC member states, the EU, as well as other foreign markets.



Project Result 3

Result 3 – Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding).

- It was noted that in most cases, the competent authorities had no explicit programmes to ensure stakeholder compliance with the regulations for which they were responsible.
- There is, in general, limited or even a total lack of information regarding SPS and TBT related regulations that was available to stakeholders.
- The authorities were generally aware of policy gaps and limitations, inconsistencies and non-conformities in national legislation and regulations related to SPS measures when compared to international standards. They often stated that they did not have the capability to rectify the known problems, often because of budgetary constraints.
- Some of these problems include the failure of the legislative framework to incorporate key international norms and obligations and, most noticeably, provisions on the import of animals, plants and their products. This implies, that as World Trade Organization (WTO) members, they do not comply to the SPS Agreement.



Project Result 3 - Cont

- In some legislative frameworks of the EPA Member States, there is no mention of the OIE as the WTO's reference organization for matters of animal health and disease control. There was also no mention of the IPPC as the WTO's reference organization for matters related to plant health. The main policy gaps and challenges that now need to be addressed in order to strengthen EPA member state capacity related to suitably compliant, and internationally aligned, SPS management and control are:
 - Review current legal framework dealing with SPS / TBT matters;
 - Assess the appropriateness of the existent legal frameworks as compared to the obligations as a signatory to the EU - SADC EPA;
 - Strengthening to ensure an even more coherency in the national legislative framework in each of the EPA Member States related to SPS / TBT measures;
 - Review of the public sector institutional arrangements with particular focus on operational procedures from a user perspective;
 - Develop effective SPS and related TBT legal frameworks and enabling institutional/operational arrangements to allow EPA Member State competent authorities to manage SPS / TBT measures;



Project Result 3 - Cont

The main policy gaps and challenges (continued):

- Assess the technical infrastructure needs, including equipment, at laboratories and border posts to support the SPS / TBT priorities and link these and other SPS / TBT related priority areas for capacity building to the related sections in the SADC Economic Partnership Agreement such as:
 - Capacity building for SPS control (including inspection, certification and supervision in the public and private sectors;
 - Capacity for maintenance and expansion of market access by SADC States;
 - Technical capacity to implement and monitor SPS measures and promote the use of international standards;
 - Support for SADC EPA States' participation in international standard setting bodies. The importance of this element is to promote national change. A country could be active in these bodies without actively pursuing appropriate national changes;
 - Promotion of cooperation on implementation of SPS Agreement (particularly with regard to Enquiry Points and Notification and International Standards Setting Bodies); and
 - Development of capacity for risk analysis, harmonization, compliance testing, certification, residue monitoring, traceability and accreditation, taking into account the identified priority products and sectors as identified by the Trade and Development Committee.



Project Result 3 - Cont

- With respect to regional trade facilitation, the responsibilities are shared between the 5 Governments and SADC.
- The 5 national reports therefore contain a set of national actions and project interventions that would benefit from member state collaboration and cooperation.
- The SPS and related TBT issues in these activities where it is appropriate that the SADC secretariat urgently take a leading role are contained in a separate Annex in the final report and summarised as a set of recommendations that follow.



The 5 EPA Member States: High Level Overview, Project Proposals and Proposed Actions

EPA Member State Overview

An analysis of the relevant SPS and standards regulatory environment of the five (5) SADC EPA States identified that the SPS laws and regulations of these countries are at different levels of development.

Regarding the three areas of SPS related legislation and regulation, namely food safety (fisheries), animal health and plant health, the five EPA Member States have a mixture of relatively recent or proposed new Acts, very old or outdated legislation or SPS related aspects that are either insufficiently, or not addressed at all.



Botswana



Strengthening of legislation, regulatory and compliance frameworks

The issues in Botswana related to the strengthening of SPS legislation and regulatory frameworks, their implementation and ensuring compliance and appropriate stakeholder involvement include:

- Outdated animal health SPS legislation and regulation;
- Updated phytosanitary legislation, but the NPPO has challenges to effectively implement phytosanitary measures including inspections, identification and diagnosis of pests and diseases, pest risk analysis epidemiology and quarantine by SPS experts and lack of equipment due to budgetary constraints;
- Non-functionality of the entities entrusted with the responsibility for transparency and information exchange in the SPS domain (National SPS Committee, SPS Enquiry Point, National SPS Notification Authority) which was identified as being due to a lack of guidance, appropriate embedding of assigned tasks and a SPS Policy Framework.



Opportunities of increased or new trade

The various respondents identified the following group of agricultural products with the potential for increased or new export trade and the associated hindrances to realising such trade.

- More Beef – Capacity and EU legislation prohibits use of some herds from the Tuli and Nata blocks and Ngamiland “red zones.” Adoption of Commodity Based Trade as approved by the OIE will be an added benefit for increased beef export from these areas.
- Small stock – Traceability, Bone in meat ban due to EU legislation makes this untenable.
- Ostrich – EU registered abattoir but lack of supply / erratic delivery.
- Donkey meat – Traceability issues need to be addressed.
- Citrus, Tomatoes, Cabbage, Green Peppers, Potatoes, Onions – domestic capacity and fruit fly.



Proposed Project proposals

Adoption of Commodity Based Trade approach to facilitate regional and international trade in livestock commodities under EU - SADC EPA in order to demonstrate that export of beef endemically FMD infected zones (Ngamiland and zones not recognized free from FMD) is possible within Africa's regional and international beef markets.

Livestock Identification and Traceability System to facilitate the permanent identification of individual animals thus enabling their traceability. Due to challenges of implementing the current system, attributed to internal processes of the competent authority (DVS) rather than the shortcomings of the system, it is necessary to implement capacity building strategies.



Proposed Action items

1. Botswana initiate a process to create and implement a national SPS / TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.
2. Selected legislation that is relevant to the national priority products / produce be reviewed.
3. EU be approached to assist Botswana in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national technical infrastructure needs that are required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.
4. The National SPS Committee be expeditiously resuscitated and its work appropriately linked to national TBT related work that is relevant to this committee.
5. The National SPS Committee be empowered by Government and receive an appropriate mandate and budget to perform specific and general SPS activities.
6. Botswana and the other Parties designate the same bodies they have identified as their "Enquiry Point" – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.

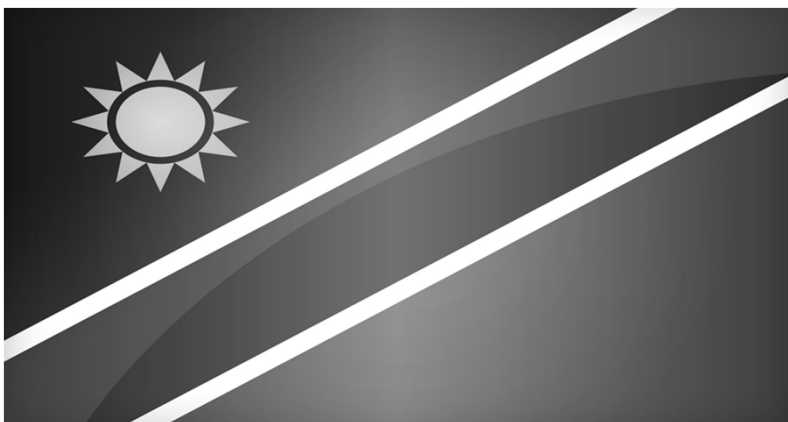


Action items – Cont.

7. The role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU-SADC EPA.
8. The need for a dedicated EU SADC SPS group tasked with supporting closer alignment of national systems with EPA SPS / TBT obligations should be prioritised. The relevant issues raised in this report should then be placed on their agenda for further attention and appropriate follow up action.
9. The EU be invited to review and appropriately revise Article 8 based on Council Decision 79/542/EEC given that it may be considered as a potential contravention of Article 2.3 of the WTO.
10. The SADC Secretariat, together with the Botswana and other EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.
11. The SADC secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related inspection capability.



Namibia



Strengthening of legislation, regulatory and compliance frameworks

The issues in Namibia related to the strengthening of SPS legislation and regulatory frameworks, their implementation and ensuring compliance and appropriate stakeholder involvement include:

- In all of the three SPS related areas the laws have been updated;
- In animal health, the updated Act has no regulations to operationalize it;
- The fisheries acts are outdated and are currently being revised;
- Namibia has a well developed and functioning Hazard Analysis and Critical Control Point (HACCP) system for the capture of fish and subsequent processing of fisheries products that underpins demonstrable compliance against SPS requirements and allows access to the African, EU and USA export markets.
- Namibia lacks capacity and capability in aquatic animal disease surveillance programmes and diagnostic capabilities for aquatic animal diseases. The increasing fresh water aquaculture activities which are supported through a fish breeding, production, research and training project require such capability.
- The freshwater system is currently being threatened by Epizootic Ulcerative Syndrome (EUS) a freshwater mould (*Aphanomyces invadans*) that is an OIE listed disease reported to have occurred in Namibia.



Opportunities of increased or new trade

The various respondents in Namibia identified the following group of agricultural products with the potential for increased or new export trade and the associated hindrances to realising such trade.

- More Beef – Capacity and EU legislation prohibits use of some herds and adoption of Commodity Based Trade as approved by the OIE.
- Small stock – Traceability, EU legislation currently makes this untenable.
- Shell Fish – Presence of unacceptable levels of cadmium and biotoxins.
- Donkey meat – Traceability and cultural issues need to be addressed.
- Non-traditional, high value agricultural products (Cabbage, Potatoes, Tomatoes, Onions and Mangoes) – domestic capacity / supply-side constraints.
- Water melons – domestic capacity and fruit fly.



Proposed Project proposals

Capacity building of the Animal Health Competent Authority (DVS) on the adoption of Commodity Based Trade (CBT) in Beef from the Northern Communal Areas of Namibia (FMD infected and Protection zones) in order to demonstrate that export of beef from endemically FMD infected and Protection zones (Zambezi Region of Namibia and the Protection zones) is possible within Africa's regional and international markets (EU and other trading partners who require beef to originate from FMD free zones).

To improve the current **Livestock Identification and Traceability System** to ensure identification of individual animals and further enable traceability, particularly in the Northern Communal Areas (NCAs).

Mitigation of the spread of Fruit Flies in trade of Namibian Watermelons by initiating research parallel to that of USDA-APHIS in Hawaii to test the conditions in Namibia under which invasive or other fruit flies can be excluded from Watermelons



Proposed Action items

1. Namibia initiate a process to create and implement a national SPS / TBT policy to co-ordinate SPS measures in the country and provide consistency, coherence and timely multi-faceted implementation by different public and private sector organisations and identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.
2. Selected legislation that is relevant to the national priority products / produce be reviewed.
3. EU be approached to assist Namibia in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national technical infrastructure needs that are required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.
4. The National SPS Committee be expeditiously constituted and its work appropriately linked to national TBT related work that is relevant to this committee.
5. The National SPS Committee be empowered by Government and receive an appropriate mandate and budget to perform specific and general SPS activities.
6. Namibia and the other Parties designate the same bodies they have identified as their "Enquiry Point" – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.



Action items – Cont.

7. The role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU-SADC EPA.
8. Creation and implementation of a National Epidemiological Surveillance System in the plant health sector.
9. The need for a dedicated EU SADC SPS group tasked with supporting closer alignment of national systems with EPA SPS / TBT obligations should be prioritised. The relevant issues raised in this report should then be placed on their agenda for further attention and appropriate follow up action.
10. The EU be invited to review and appropriately revise Article 8 based on Council Decision 79/542/EEC given that it may be considered as a potential contravention of Article 2.3 of the WTO.
11. The SADC Secretariat, together with the Namibian and other EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.
12. The SADC secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related inspection capability.



Mozambique



Strengthening of legislation, regulatory and compliance frameworks

The issues in Mozambique related to the strengthening of SPS legislation and regulatory frameworks, their implementation and ensuring compliance and appropriate stakeholder involvement include:

- The legislative framework fails to incorporate key international norms and obligations, notably provisions on import and export of animals and animal products, that do not comply with WTO member obligations and there is no mention of the OIE as the reference organization for matters relating to animal health and disease control;
- Mozambique's sanitary and phytosanitary measures do not appear to have been revised substantially since 2001;
- Local capacity in metrology has been created through capacity building interventions, however, there is still a lack of local capability and capacity for calibrating measuring equipment in several important scopes;
- There is little or no local capacity for certification for products and processes to support the access of agricultural products to regional and international markets.



Opportunities of increased or new trade

The various respondents within Mozambique identified the following group of produce / products with the potential for increased or new export trade together associated current hindrances to realising such trade.

- More Beef – Capacity and lack of common understanding and subsequent application in testing for FMD free status.
- Small stock – Traceability, EU legislation currently makes this untenable.
- New and diversified aquaculture products – Personnel training and upgrading of laboratories required to comply with relevant product / food safety standards.
- Honey – No capacity related to potential associated diseases.
- Higher value agricultural produce and products – domestic capacity and fruit fly.



Proposed Project proposals

National Fruit Fly Surveillance Programme through initiating research parallel to that of USDA-APHIS in Hawaii to test conditions in Mozambique under which invasive or other fruit flies can be excluded from bananas and mangoes and/or other susceptible fruits.



Proposed Action items

1. Mozambique initiate a process to create and implement a national SPS / TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.
2. Mozambique to implement the recommendations of the OIE Veterinary Legislation Identification Mission Report (2015) and select legislation that is relevant to the National Priority Products, Produce (vegetables and horticulture), which needs to be reviewed.
3. EU be approached to assist Mozambique in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national technical infrastructure needs that are required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.
4. The ToR of the National SPS Committee be revised and its work appropriately linked to national TBT related work that is relevant to this committee.
5. The National SPS Committee be empowered by Government and receive an appropriate mandate and budget to perform specific and general SPS activities.

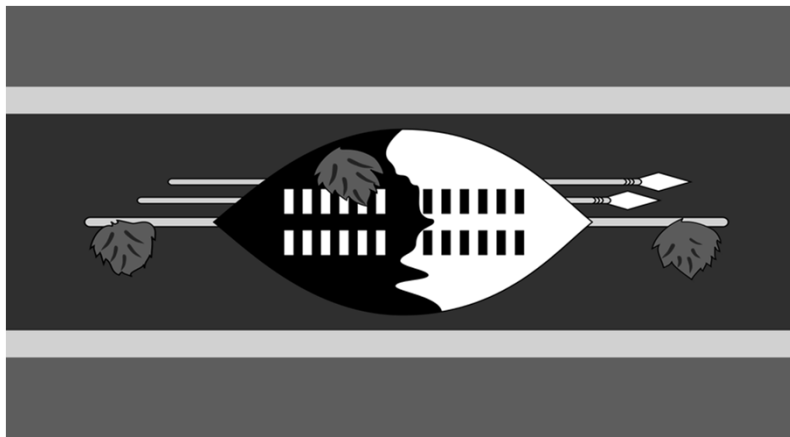


Action items – Cont.

6. Mozambique and the other Parties designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.
7. The need for a dedicated EU SADC SPS group tasked with supporting closer alignment of national systems with EPA SPS / TBT obligations should be prioritised. The relevant issues raised in this report should then be placed on their agenda for further attention and appropriate follow up action.
8. The SADC Secretariat, together with the Mozambican and other EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.
9. The SADC secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related inspection capability.



Swaziland



Opportunities of increased or new trade

The various respondents in Swaziland identified the following group of animal and plant related produce / products with the potential for increased or new export trade together associated current hindrances to realising such trade.

- Beef – Lack of EU recognition of OIE FMD free status.
- Honey – See related project proposal.
- Higher value agricultural produce and products – domestic capacity and lack / weakness of appropriate supportive SPS / TBT related infrastructural capability and capacity.



Proposed Project proposals

Development of a Honey Value Chain in Swaziland within an appropriate Sanitary and Phytosanitary / TBT Framework that addresses SPS / TBT measures including traceability and food safety protocols and related control systems for smallholder bee keepers, processors, packers and traders for honey and bee products.



Proposed Action items

1. Swaziland initiate a process to create and implement a national SPS / TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed and serves to coordinate SPS measures in the country, which are currently being implemented by several ministries and institutions, but are not necessarily reinforcing each other. This would provide consistency, coherence and timely multi-faceted implementation of structures.
2. Selected legislation that is relevant to the national priority products / produce be reviewed.
3. EU be approached to assist Swaziland in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national technical infrastructure needs that are required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.
4. The National SPS Committee be formally constituted and its work appropriately linked to national TBT related work that is relevant to this committee.
5. The National SPS Committee be empowered by Government and receive an appropriate mandate and budget to perform specific and general SPS activities.



Action items – Cont.

6. Swaziland and the other Parties designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.
7. The need for a dedicated EU SADC SPS group tasked with supporting closer alignment of national systems with EPA SPS / TBT obligations should be prioritised. The relevant issues raised in this report should then be placed on their agenda for further attention and appropriate follow up action.
8. The SADC Secretariat, together with the Swaziland and other EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.
9. The SADC secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related inspection capability.



Lesotho



Strengthening of legislation, regulatory and compliance frameworks

The issues in Lesotho related to the strengthening of SPS legislation and regulatory frameworks, their implementation and ensuring compliance and appropriate stakeholder involvement include:

- No current legislation dealing specifically with SPS matters;
- Lesotho has however taken some steps during the period 2008-2015 towards developing SPS legislation by issuing policy papers;
- In 2014 the Ministry of Agriculture and Food Security drafted a Phytosanitary Policy and Sanitary Policy;
- The Ministry of Trade and Industry drafted a Food Safety Policy and a Quality Policy and the
- The Ministry of Health completed the draft of the Food Safety Bill.



Opportunities of increased or new trade

The various respondents in Lesotho identified the following group of animal and plant related produce / products with the potential for increased or new export trade together associated current hindrances to realising such trade.

- Wool and mohair – encourage appropriate animal husbandry and fodder production to increase livestock product exports.
- Higher value agricultural produce and products – domestic capacity and lack / weakness of appropriate supportive SPS / TBT related infrastructural capability and capacity to defend against invasive pests such as fruit fly – see project proposal.



Proposed Project proposal

Mitigation of the spread of invasive or other Fruit Flies in fresh fruits and vegetables

By initiating research parallel to that of USDA-APHIS in Hawaii to test the conditions in Lesotho under which invasive or other fruit flies can be excluded from fresh fruit and vegetables.



Proposed Action items

1. Lesotho initiate a process to create and implement a national SPS / TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed, and to co-ordinate SPS measures in the country. Currently several ministries are implementing various SPS Acts / Policies which are not necessarily reinforcing each other. This would provide consistency, coherence and timely multi-faceted implementation of structures.
2. Selected legislation that is relevant to the national priority products / produce to be reviewed, updated and aligned with international developments and trends.
3. EU be approached to assist Lesotho in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national technical infrastructure needs that are required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.
4. The National SPS Committee be formally re-constituted and its work appropriately linked to national TBT related work that is relevant to this committee.
5. The National SPS Committee be empowered by Government and receive an appropriate mandate and budget to perform specific and general SPS activities.



Action items – Cont.

6. Lesotho and the other Parties designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.
7. The need for a dedicated EU SADC SPS group tasked with supporting closer alignment of national systems with EPA SPS / TBT obligations should be prioritised. The relevant issues raised in this report should then be placed on their agenda for further attention and appropriate follow up action.
8. The SADC Secretariat, together with Lesotho and other EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.
9. The SADC secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related inspection capability.





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The Project High Level Recommendations

Recommendation 1

Observations: An analysis of the legislative frameworks of the five SADC EPA Countries indicates that there are some notable strengths. Certain elements are already, and comprehensively, addressed such as import and export of animals and animal products and fresh fruits. The extent and technical implementation related details obviously differ from country to country. The study has also identified a critical lack of the supportive regulations which are required to specify the technical, procedural and administrative modalities to implement the legislation.

Although this is a member state responsibility, there are benefits, including almost automatic harmonisation of subsequent legislative and regulatory remedial action, that could be derived by appropriate SADC facilitation of targeted legislative remedies between EPA member states.

Recommendation 1: *The SADC secretariat approach the EU to assist each of the EPA member states in identifying and implementing more current legislation / Technical Regulations in a coordinated and mutually supportive manner.*



TBT PROGRAMME
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Recommendations 2 and 3

Observations: Implementation of the EPA could initially focus and begin to address only the problems related to the legislative and communication related obligations of the WTO TBT and SPS Agreements, by improving legislation, institutional arrangements and procedures. These issues once addressed will not however, be sufficient on their own.

Some of the implementation problems relate to the local capacity constraints and institutional problems, such as insufficient coordination, dormant SPS committee structures, non-functionality of entities entrusted with responsibility for transparency and information exchange in SPS domain (National SPS Notification Authority, SPS Enquiry Point, etc.), no apparent linkage between the national SPS and TBT institutions and appropriate use of existing technical support capacity, limited / no flow of information regarding SPS / TBT regulations and limited / no capacity for framing responses that reflect national positions and available technical capability.

Although again this is a member state responsibility, there are benefits that could be derived by appropriate SADC facilitation of targeted remedies between the 5 EPA member states.

Recommendation 2: *The SADC secretariat encourage each of the EPA member states and facilitate a process to assist them in the creation and implementation of a national SPS/TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.*

Recommendation 3: *The SADC secretariat encourage each of the EPA member states to designate the same bodies they have identified as their "Enquiry Point" – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.*



Recommendations 4 and 5

Observation: The overall impression from the interviews conducted in each of the 5 EPA member states is that the resources available for SPS and TBT related activities are severely constrained.

Local SPS committees are mostly informal or even inactive and feedback / reporting for related and informed high level decision making is also a major problem. National SPS coordinating structures are tasked with the implementation of activities meant to improve and strengthen national SPS and Food Safety Control Management.

This issue is critical given that the management of SPS issues at the SADC level is based on having effective national SPS committees. Now that the EPA is in force, it is imperative that these vital committees are constituted and made operational as a matter of urgency.

Recommendation 4: *The SADC secretariat take the lead supported by the EU delegation to SADC in determining the role and constituency of a dedicated EU SADC SPS monitoring group that would ensure that EPA member state SPS / TBT committees are functioning and appropriately support their SADC and EPA SPS / TBT related obligations.*

Recommendation 5: *The SADC Secretariat, together with at least the 5 EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.*



Recommendations 6, 7 and 8

Observation: Plant and animal pests and diseases do not obey political boundaries. It is therefore important that the existing cooperation among SADC Member States is further strengthened to timeously control the spread of pests and diseases while protecting current and future regional crops and produce as a sustainable and sought after resource for both local consumption and potential export.

It is evident from inputs received during the various interviews that there are important issues regarding availability of the necessary scientific and technical capacity and associated infrastructure. One area is the lack of expertise and experience in Risk Analysis / Assessment. Another is lack of technically supported and internationally recognised inspection capacity. Concerted and national / regionally coordinated efforts will be required to address such underlying problems.

The project has identified the need for appropriate capacity-building programmes that could assist in unlocking increased or new export related trade for a group of beneficiary country selected products / produce but also it was noted that there are SADC technical support structures and associated capacity already in place, much of which was substantially funded by the EU. These could be used to a much greater extent in the appropriate strengthening and use of the national and regional institutional SPS / TBT technical capacity.



Recommendations 6, 7 and 8

Recommendation 6: *The secretariat is encouraged to take an even more active role in assisting in the provision of EPA SPS related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis including pest risk analysis, and surveillance, epidemiology and quarantine given the fast spreading invasive fruit flies and new banana disease (already recorded in DRC, Northern Angola etc.) and SPS / TBT related test and inspection capability.*

Recommendation 7: *The SADC secretariat approach the EU to assist each of the EPA member states in identifying appropriate national and / or regional SPS / TBT technical infrastructure needs that will be required to prove ongoing adherence to and compliance with best practice based SPS legislation and associated procedures in a sustainable and cost effective way.*

Recommendation 8: *The SADC Secretariat, together with the EPA and other SADC member state SPS Committees, are encouraged to cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures given that success in increasing global and regional food and agricultural trade also depends on prevention, mitigation and control of plant and animal pests and diseases.*



Recommendation 9

Observation: The SADC Regional SPS Committee consists of representatives of national SPS committees, who represent their stakeholders along the food chain involved in SPS and Food Safety Control Management.

The national SPS coordinating structures are tasked with implementation of activities meant to improve and strengthen SPS and Food Safety Control Management. Guidance to the SADC member state national SPS structures is provided by the Regional SADC SPS Committee which comprises of the Regional Technical Committees of Food Safety, Animal Health and Plant Health.

In the EPA member states visited there was very little evidence that any actions to date from the SADC SPS committees had subsequently translated to any practical outcomes for the public and private sector actors who are engaged in the trading of SPS sensitive commodities.

Recommendation 9: *The SADC secretariat take responsibility for coordinating a regional strategy for ensuring that the role of the committees are functional.*



Recommendation 10

Observation: The SADC EPA countries surrounding the Caprivi Strip (Zambezi region of Namibia) and the Okavango Delta (Ngamiland in Botswana) have experienced difficulties resulting from FMD. Beef producers in these regions have had difficulties in gaining access to the international and regional markets for livestock commodities and products.

Recommendation 10: *The SADC secretariat take responsibility for coordinating a regional strategy for ensuring that the role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU - SADC EPA. The affected SADC EPA countries should address this as a regional trade initiative. A SADC Committee should be formed with the assistance of SADC Secretariat to advocate the region's interest at EU and SADC forum through EU - SADC EPA.*



Recommendation 11

Observation: The SADC Trade and Development Committee is responsible for monitoring the development cooperation procedures in the relevant EPA in general and making recommendations in this regard.

While provisions in the EPA create an institutional forum for discussion, the general nature of such a forum and thus also of the delegates sent to participate in its meetings, mitigates against opportunities for high level scientific and technical discussions amongst expert participants. It also does not automatically provide for the possibility for expert networking and learning between SPS regulatory officials.

The implementation of the EPA does however create an opportunity to establish special technical groups or special committees to deal with specific matters.

Recommendation 11: *The SADC secretariat take the lead supported by the EU delegation to SADC in determining the need for and role of a SADC EPA / EU expert committee(s) of member state Competent Authorities tasked with strengthening and aligning EPA member state animal, plant and fisheries regulatory systems in line with SADC and EPA SPS / TBT obligations.*



Conclusion

The project final report, and the 5 associated national reports, provide details of the project activities that were completed, and provides a set of recommendations and proposed projects for future work in order to address the national and regional Sanitary – Phyto Sanitary (SPS) and associated Technical Barrier to Trade (TBT) issues.

These include national issues related to the products and produce identified by the project that need addressing by the Governments and private sector role players in the five EPA Member States that were the focus of this project, namely Botswana, Namibia, Mozambique, Swaziland and Lesotho.

There are also SADC level issues related to assisting these, and other SADC Member States, in addressing the gaps and shortcomings in existing legislative, policy and regulatory frameworks and associated technical infrastructure that can assist them to successfully and sustainably access the EU and other more sophisticated markets .





TBT PROGRAMME
OVERCOMING TECHNICAL BARRIERS TO TRADE



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Project funded by the EU at the request of the ACP Group

