

Uganda's challenges in complying with the WTO Agreement

By

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Abstract

As tariff and tariff-related barriers to trade continue to decline through trade liberalization and regional integration, non-policy barriers to trade like freight costs, standards and quality requirements are increasingly gaining significance. Non-policy barriers to trade are more relevant to agricultural countries like Uganda that are focusing on export of perishables (e.g. flowers, vegetables, fish and fish products, etc.) in markets for example Europe where quality requirements are too stringent before accessing the market. The discussion in this paper looks at Uganda's capacity to overcome trade constraints due to the need for complying with standards by focusing on the WTO Agreement on SPS and TBT issues before and after 1995. Case studies focusing on institutions (i.e. Department of Crop Protection, Department of Fishery Resources, Uganda National Bureau of Standards) responsible for formulating and enforcement are covered in detail to unveil problems relating to mandatory standards and trade in Uganda.

It is clear that difficulties facing Uganda in formulating and enforcing process and product standards include institutional weakness arising from inadequate infrastructure and capacities, insufficient technical know-how in standards development processes, little awareness and limited access to information on international standards among relevant stakeholders, limited participation in international standards-setting process, poor coordination among agencies responsible for technical regulations, inadequate funding, and inadequate stakeholder participation in formulation of technical regulations. A lot has been done in areas of standardization and quality control, however, more needs to be done. This low institutional and infrastructural capacity clearly calls for further attention in terms of funding and other forms of support that would contribute to reduced trade costs, more trade, employment, income and better welfare of stakeholders in the trade sector.

Acronyms

BOU	Bank of Uganda
CMA	Capital Markets Authority
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
EPRC	Economic Policy Research Centre
EU	European Union
FAO	United Nations Food and Agricultural Organization
HORTEXA	Horticultural Exporters Association
GATT	General Agreement on Trade and Tariffs
IIC	Inter Institutional Committee
IITC	Inter Institutional Trade Committee
ICT	Information communication Technology
ISO	International Standards Organization
IPPC	International Plant Protection Convention
ITC	International Trade Center
JITAP	Joint Integrated Technical Assistance Programme
LDC	Least Developing Countries
LVFO	Lake Victoria Fish Organization
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries
MJCA	Ministry of Justice and Constitutional Affairs
MOFA	Ministry of Foreign Affairs
MOFPED	Ministry of Finance Planning and Economic Development
MOH	Ministry of Health
MTS	Multilateral Trading System
MTTI	Ministry of Tourism, Trade and Industry
MUBS	Makerere University Business School
MUK	Makerere University Kampala
MWHC	Ministry of Works, Housing and Communication
NARO	National Agricultural Research Organization
NEMA	National Environment Management Authority
PEAP	Poverty Alleviation Action Plan
PSF	Private sector Foundation
PTA	Preferential Trade Area
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
UCDA	Uganda Coffee Development Authority
UIA	Uganda Investment Authority
UFEA	Uganda Flowers Exporters association
UEPB	Uganda Export Promotion Board
UFPEA	Uganda Fish Producer and Exporters Association
ULRC	Uganda Law Reform Commission
UMA	Uganda Manufacturers Association
UMI	Uganda Management Institute
UNBS	Uganda National Bureau of Standards
UNCCI	Uganda National Chamber of Commerce and Industry
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
UNDP	United Nations Development Program
UPTOP	The Uganda Programme for Trade Opportunities and Policy

URA
USAID
UTB
WTO

Uganda Revenue authority
United State Agency for International Development
Uganda Tourism Board
World Trade Organization

1. Uganda's export sector

Uganda's exports largely comprise agricultural commodities comprising coffee, cotton, tea, flowers, processed fish and fish products, vanilla, etc. Prior to 1990s, the country's poor export performance was largely due to policy-induced factors comprising controls of the foreign exchange market (i.e. official exchange rates and rationing of the foreign exchange) and of producer and consumer prices; high tariffs and prevalence of non-tariff barriers such as import ban, quotas, taxes on exports, etc. The procurement, distribution, processing, marketing and exporting of major cash and some food crops were restricted to government parastatals (e.g. coffee under the Coffee Marketing Board, cereals produce under the Produce Marketing Board). These created an anti-export bias, resulted into low producer prices, delays in payment to producers, and discouraged resource allocation into production for export. Trade policy reforms (i.e. trade liberalization) in Uganda since early 1990s have comprised decontrol of producer prices and dismantling of the monopoly power of former marketing boards, both of which reinforced the exchange rate policy reform². These reforms ended the payment of fixed margins to participants in the production, marketing and distributional channels, and introduced increased competition and efficiency.

Trade liberalization is often assumed to present a number of benefits to the economy (Amjadi and Yeats, 1995; Soludo, Ogbu and Chang, 2004: 11-12). First, it reduces inefficiencies arising from misallocation of resources. Second, it raises learning effects from the development of new products, technologies, and information sources. Third, it increases the country's ability to cope with adverse external shocks. Fourth, it generates benefits from linkages between export and other sectors. Fifth, it weakens monopoly elements that may affect trade, which in turn would result into favorable import and export prices. Finally, it reduces the reliance on a limited and often unstable export of primary commodities to a more diversified basket of export products. Trade policy reforms in Uganda improved price incentives and resulted into positive supply response both in terms of volume and composition of exports. The country's export earnings increased, for example, from about US\$ 258 million in 1981 to a peak of about US\$ 710 million in 1996 and about US\$ 523 million in 2003. The commodity composition of Ugandan exports has changed significantly since 1991, with traditional exports (coffee, cotton, tea and tobacco) contributing about 53% and 38% in 2000 and 2003 respectively to total exports, a decline from just less than 86 percent in 1992 (The Republic of Uganda, 1996 and 2004). The contribution from coffee exports reduced from about 80 percent in 1992 to about 55% and 21% in 1998 and 2003 respectively partly due to deteriorating terms of trade. However, Ugandan export trade structure has not changed much in terms of market destination of exports as about 73% and 45% of Uganda's exports were destined for the European Union in 1995 and 2001 respectively.

The liberalization of trade in Uganda has largely removed policy-induced constraints that impeded export growth. There are however non-policy barriers to trade, which include duplicative testing, excessive documents including certificates for compliance with standards both voluntary and mandatory (e.g. TBT Agreement); cumbersome customs clearance and evaluation procedures; labeling and health requirements (e.g. SPS Agreement), etc. Equally export trade can be constrained by high transport costs, high costs relating to erratic and insufficient electric power supply, costs of credit, high

² The monopoly of market boards was eliminated as follows: Coffee Marketing Board in 1991, the Produce Marketing Board in 1989, the Lint Marketing Board in 1994 and the Tea Export Authority in 1993.

transaction costs due to inadequate and poor flows of information on market opportunities, incentives and requirements both at home and in foreign markets. This paper focuses on trade barriers due to quality and safety requirements in the framework of the WTO Agreement in import markets of interest to Uganda's export products. This does not imply in any way that other non-policy factors are less stringent in constraining the country's trade.

1.2 Quality implications of the liberal trade regime in Uganda

Trade liberalization resulted into increased market participants with potential to the deterioration of the quality of output. For example, the number of coffee exporters had risen to over 65 by 2003 (UCTF, 2002/2003) since the liberalization of the coffee industry in Uganda in 1991. The Uganda Coffee Development Authority (UCDA), a regulatory body established by statute No. 4 of 1991, ensures the quality of coffee exported by enforcing coffee regulations as amended by statute No. 5 of 1994. This regulatory requirement was implicit under the Uganda Coffee Marketing Board (CMB) before the coffee sub-sector was liberalized³. Equally, other exporting sectors (both existing and new ones) in Uganda experienced increased participants following trade liberalization but, unlike coffee and cotton, they do not have strong statutory bodies regulating the quality of their export produce. Quality control in other exporting sectors has instead depended on *Codes of good practice*⁴ enforced under appropriate producers' or exporters' associations, for example, UFEA, UFPEA, HORTEXA, UHA, etc. It is worth noting that most of these producers' associations were formed primarily to lobby the government for interests of their members and the quality control was not among their initial objectives. In addition, membership among these associations is voluntary rather than mandatory, which may partly explain why the enforcement of quality in these sectors has remained a problem.

The increasing contribution of non-traditional exports to Uganda's export earnings has mainly been due to the diversification of the export base, with fish and fish products, flowers and horticultural products making up the bulk of these exports. Most of these exports are destined for the EU market, where health, safety and environmental concerns relating to trade are outstanding. Therefore, SPS and TBT issues have gained increasing significance in impacting on the growth of the Ugandan export trade, with the most example being the European Union (EU) ban on Ugandan fish in 1999 under the precautionary principle of the SPS Agreement. The implication of this is that Uganda has had to change her policy stance with regard to SPS and TBT issues, for example, through the upgrading fish landing sites, reforming institutional roles and responsibilities in the fish sub-sector, establishing testing laboratories (*for details see Rudaheranwa, et al., 2003: 391-394*). Furthermore, the traceability of foods (through all stages of production, processing and distribution) is a requirement under regulation EC178/2002 (<http://europa.eu.int>) that was expected to come into force in the European Union effective 1 January 2005. This legal requirement were to impact on all agri-foods

³ The quality control in the coffee sub-sector was particularly possible because of the CMB's strictness and monopoly in procuring, processing and exporting of the coffee produce in the country before the sub-sector was liberalized in 1991.

⁴ Standards and other quality guidelines to the production and delivery of flower and horticulture output are contained in the national code-of-practice developed in 1998 (and updated in 2000) with technical and financial assistance from a USAID-sponsored project (Rudaheranwa *et al.*, 2003: 388).

supplied into European markets and countries heavily reliant on EU markets for their agricultural exports like Uganda were obliged to set up a traceability system that allows identification of the origin and destination of any product.

1.3 Quality requirements and export performance

Policy-induced tax burden and anti-export bias on the country's exports reduced substantially following the liberalization of trade and rationalization of the tariff structure in Uganda, e.g. tariff rates reduced from 60% in 1994 to a maximum tariff rate of 15% in 2004 and there are no taxes on exports. Non-tariff barriers, such as mandatory and voluntary standards, to trade are of increasing significance as tariffs continue to decline through further trade liberalization measures. Uganda is pursuing a private sector-driven export-led economic growth approach (The MTTI, 2004). The rationale for this strategy is articulated in the Revised Poverty Eradication Action Plan (PEAP), which contends that because of small domestic market, it is difficult for Uganda to achieve the economic growth to reduce poverty levels below 10% by 2017 without enhancing export earnings on sustainable basis (The Republic of Uganda, 2004).

The PEAP also establishes the need for structural transformation within the economy. When benchmarked against South East Asian economies that achieved similar transformation as Uganda aspires to achieve over a 20-year period, Uganda would have to increase her exports from 12% of the GDP in 2001 to almost 25% of the GDP (Bevan, Adam, Okidi and Muhumuza, 2003). In order to ensure that export-led growth is attained, Ugandan exports will require improved and expanded access to markets. Policy objectives for export growth in Uganda are to add value, broaden the export base and pursue increased market access. This government philosophy is clearly manifested in a number of policy documents including the MTTI Ministerial Policy Statement 2004/05, and the Poverty Alleviation Action Plan (PEAP) revision paper for Economic Services Sector Working Group (MTTI, 2003/2004) and the revised PEAP (2004). However, a number of issues remain outstanding in the area of market access including quality requirements, standards and other non-tariff barriers that currently constrain the growth of exports.

A major market access challenge facing a developing country like Uganda is the capacity to implement standards, technical regulations, and conformity assessment to access developed country markets, promote sustainable development and reduce poverty. The growth effect of trade reform in developing countries like Uganda is contingent on internal and external conditions (Oyejide, 2003). Trade liberalization has to be complemented by strengthening of the capacity among trade-related institutions including policy formulation, implementation and monitoring bodies, customs, standards-setting and enforcing bodies and export promotion agencies, as well as trade-facilitating infrastructure. External market access is also crucial for developing countries like Uganda to reap full growth benefits of its trade policy reforms. Among the market access factors, capacity to comply with standards and technical regulations and conformity assessment to access overseas markets and promote sustainable development create the most important difficulty for Uganda's exports.

This paper focuses on conditions that prevailed in Uganda before the coming into force of the WTO, the current conditions, and what has been done in the process of implementing the WTO Agreement since 1995. Where possible, an attempt is also made to assess costs and benefits for Uganda's implementation of the WTO Agreement. The

rest of the paper is organized as follows. Section 2 provides Uganda's participation in the Uruguay Round that led to the transformation of GATT into WTO. This section presents a baseline evaluation of initial conditions before the ratification of WTO Agreement. The institutional restructuring to comply with WTO Agreement is provided in Sections 3, 4 and 5 while Section 6 provides concluding remarks to the discussion.

2. Uganda and the Uruguay Round

The most comprehensive round of multilateral trade negotiations was launched in Uruguay in 1986 and concluded in 1994. Consequently, the World Trade Organization (WTO) came into being on 1st January 1995. The WTO is entrusted with the implementation and enforcement of multilateral trade Agreement negotiated during the Uruguay Round, covering a range of aspects of the trade in goods and services. This Agreement entails an extensive programme of work with respect to implementation, reviews and further negotiations. New issues may also be added onto the work programme provided there is consensus amongst WTO Members. This work programme requires commitment of human and material resources by WTO Members. However, most developing countries like Uganda have not been able to participate in WTO matters in a way that effectively serves their interests, due their limited knowledge, financial and human resources coupled with poor coordination.

The participation of sub-Saharan countries in the rule-making process of Uruguay Round was minimal. Finger (1999:11 and 2000:433) shows that only 65 developing countries were members of GATT/WTO when the Uruguay Round began in 1987, 20 of which did not have delegations in Geneva. Like other countries, Uganda faced a number of problems (15 developing countries were represented by Embassies in other European cities, and 5 by delegation based in their national capitals). Other difficulties experienced during the Uruguay Round including (i) technically weak representation in Geneva (ii) inadequate technical expertise to significantly contribute to negotiations yet many issues discussed during the negotiations were highly technical, and (iii) financial limitations, constrained Uganda in sending competent teams of negotiators even in sectors where expertise existed. Furthermore, links between WTO delegations and relevant agencies (e.g. agricultural ministries and SPS negotiators) at home hardly existed (see Finger, 1999 and 2000). One of the weakest points of developing countries is the link between capitals and Geneva missions. There are two important aspects to this. First, Geneva delegates like other delegates, act on the basis of instructions and positions from their capitals. In many cases such instructions are not forthcoming, especially for purposes of regular meetings of the WTO bodies where unexpected issues may arise and events may unfold very fast. Second, where country or regional positions are adopted and successfully argued in the WTO during the Geneva processes, officials from the capital particularly at ministerial level, have on several occasions ended up taking different positions at the final meeting. This weak link has been often used by developed countries to defeat positions of the developing countries. In any case, Uganda never participated regularly in the negotiations, and thus her current trade problems may be stemming from implementing the Agreement in whose negotiations she never meaningfully participated.

The Ministry for Trade and Industry signed the Final Act embodying outcome of the Uruguay Round on behalf of Uganda in April 1994. In the same year, the Ministry responsible for Foreign Affairs signed and deposited instruments ratifying the WTO Agreement. Therefore Uganda, a Contracting Party to the GATT since independence in

1962, is a founding Member of the WTO. In accordance with Article XIV:1 of the Agreement establishing the World Trade Organization, the Multilateral Trade Agreements annexed to the WTO Agreement became binding on Uganda with the entry into force of the Agreement on 1st January 1995. These include, among others, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), and the Agreement on Technical Barriers to Trade (TBT).

Under the SPS of the WTO Agreement, Members are required to notify other countries of any new or changed sanitary and phytosanitary requirements which affect trade, and to set up Enquiry Points to respond to requests for more information on new or existing measures. WTO Members must open themselves to scrutiny regarding how they apply their food safety and animal and plant health regulations (Annex B). An SPS Committee exists with the WTO to review compliance with the Agreement; to discuss matters with potential trade impacts, and to maintain close cooperation with the appropriate technical organizations. Similarly, the TBT Agreement requires WTO Members to notify other Members when two conditions apply: (1) whenever a relevant international standard or guide/recommendation does not exist, or the technical content of a proposed/adopted technical regulation or procedure is not in accordance with the technical content of relevant international standards or guides of recommendations; and (2) if the technical regulation or conformity assessment procedure may have a significant restrictive effect on trade of other Members (Articles 2.9 and 5.6). Draft regulations have to be notified to the WTO Secretariat, if possible sixty days prior to their formal adoption so as to allow time for other Members to make comments. Regulations can also be notified ex-post whenever urgent problems of safety, health, and environment protection arise (Articles 2.10 and 5.7). Under Article 10.7, a WTO Member who has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade must notify other Members through the WTO Secretariat of the products to be covered by the agreement, and provide a brief description of the agreement.

Each WTO Member must set up a national enquiry point to act as a focal point where other WTO Members can request and obtain information on a Member's technical regulations, standards and test procedures whether impending or adopted, as well as to participate in international and regional standardizing bodies and conformity assessment systems (Article 10). Enquiry points are generally governmental agencies. Setting up a National Enquiry Point is the first step of a Member government towards the implementation of the TBT Agreement.

Despite its limited capacity, Uganda has taken a number of steps to comply and implement the WTO Agreement. Uganda has undergone two trade policy reviews (1995 and 2001) and an Agreement establishing the WTO has been ratified. Uganda has bound her tariff levels at 80% and submitted the schedules of concessions to the GATT/WTO Secretariat in October 1994. As a result of the Uruguay Round, Uganda's level of tariff bindings increased significantly to cover a quarter of all tariff lines (87 per cent of agricultural and fishery products and 15 per cent of industrial products). However, many bound rates remain higher than the applied rates. Uganda has updated and submitted all basic notifications as required, and identified and notified to the WTO Secretariat of focal point, competent authorities and enquiry points. Some laws, regulations and administrative practices to make them compliant with the WTO Agreement have been (or are in process of being) reviewed. As we note later, a formal

consultative framework (IIC) for the implementation of WTO Agreements was set up, which has since been extended to cover all trade policy and trade development issues.

Table 1: Uganda's notification in the SPS and TBT Agreements up to 2001

WTO Agreement	Requirement	Notification(s)/year
SPS	Measures taken	G/SPS/N/UGA/1, 8 th Jan 1999; G/SPS/N/UGA/1/Corr.1 on 20 th April 1999
TBT Art. 15.2	Laws and Regulations	G/TBT/2/Add.23 on 8 th Oct 1996
TBT (Annex 3)	Acceptance of code	G/TBT/CS/N/81 on 6 th October 1997
TBT Art.10.7, Art. 2.9 and 2.10	Technical Regulations Formulation of standards and legislation Enquiry points and government authority	G/TBT/10.7/N/19 27 th January 1999
TRIMS Art. 5.1, 5.2, 5.3 and 6.2	TRIMS not in conformity, extension of transition period, publication	Not available
TRIPS Art. 69 and 63.2	Contact point, laws and regulations	Not available
PIS, Art. 5	Publication and policy	Not available
Rules of origin, Annex II, Art. 5.4	Preferential rules of origin	Not available

Source: Trade Policy Review Uganda 2001

As part of her obligations in the SPS and TBT Agreements, Uganda has identified and established national enquiry points namely the Uganda National Bureau of Standards (UNBS) under the MTTI for the TBT Agreement and the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) for the SPS Agreement. The responsibility of ensuring that Uganda complies with requirements of the WTO is vested primarily in the MTTI. For transparency purposes and as part of the requirement for effective participation in the WTO framework, the MTTI issues notifications to the WTO secretariat for distribution to all other Members. Table 1 summarizes the notifications done by Uganda in complying with the SPS and TBT Agreements up to 2001. The main problems affecting the MTTI with regard to implementing her WTO responsibilities have been limited technical, financial and institutional capacity.

2.1 Regulatory reforms to comply with WTO Agreement

Uruguay Round Agreements provide that all Members have to review the local laws to conform to the provisions of the Agreements within 5 years from the entry into force of the WTO. Under the Ugandan laws, international treaties are not self-executing, and cannot directly be invoked before national courts. Consequently, to be legally applicable, they must be incorporated into domestic legislation. The WTO Implementation Bill is currently in draft form, which and when passed will domesticate the World Trade Organization Agreement.

Although laws relating to SPS and TBT Agreements have not been updated for a considerable period, efforts are currently underway to get them updated. The objective of the current Plant Protection and Health Bill, 2003 (revision of Plant Protection & Health Act, 1962) is to reform and consolidate laws relating to protection of plants against destructive diseases, pest and weeds, to prevent the introduction and spread of harmful organisms that may adversely affect Uganda's agriculture, the natural environment and livelihood to the people and for other related matters. The Bill also provides for enforcement of phytosanitary standards in relations to international trade. The aim of Agricultural Chemical (Control) Bill, 2003 is to control and regulate the manufacture, storage, distribution and trade in, use, importation and exportation of agricultural chemicals and to repeal the control of Agricultural Chemicals Statute, 1989. Other regulatory reforms in this regard have included the Agriculture Seed and Plant Bill, 2003 and the Food Safety Bill, 2003 (revision of Food and Drugs Act, 1964). To guarantee that SPS measures are based on international standards, guidelines or recommendations, national policies and regulations are guided by (i) the OIE in animal sub-sector import/export (ii) the IPPC in crop sub-sector imports and exports and (iii) the international standards of Codex are relevantly adopted as national standards for the food safety sub-sector.

2.2 Institutional reforms to implement the WTO Agreement in Uganda

The task of implementing the WTO Agreement would imply some rationalization of institutional and human resource use, policy adaptation and above all, improved national coordination among all relevant sectors in order to cope with various requirements for effective participation in the MTS. Uganda set up an Inter-Institutional Committee (IIC) in 1999 with funding from the Joint Integrated Technical Assistance Programme (JITAP) to coordinate the country's trade policy matters (Balihuta, 2002; Elimu, 2004). The IIC was only one of the components of activities under JITAP (Phase I with a funding to the tune of US\$ 1,489,000) whose implementation in Uganda started in 1998 with a focus of building human and institutional capacity to the country's ability to effectively manage its integration into the multilateral trading system (MTS).

The IIC drew its participants from both the relevant public institutions and business community including, where and when appropriate, professional associations and academia⁵ (Balihuta, 2002: 9-11). The IIC had sub-committees covering areas of agriculture; services; legal and intellectual property rights, and anti-competitive practices. The IIC became so useful and effective that its mandate was expanded in 2002 to cover all trade issues, including regional integration, domestic and bilateral initiatives. As a result of this expanded responsibility, the IIC became the Inter-Institutional Trade Committee (IITC) whose membership rose to 55 representing various institutions (Elimu, 2004). The IITC has an effective mechanism for consultation among stakeholders and for intra-government trade policy coordination focusing on the development of a coherent trade strategy.

⁵ Membership of the IIC was drawn from MTTI, MFPED, MAAIF, MWHC, MOH, MJCA, MOFA, Presidents Office, URA, UIA, UEPB, UNBS, ULRC, BOU, UTB NARO, CMA, NEMA, MUBS, MUK (Faculty of Law), EPRC, UMI, LDC, PSF, UMA, UNCCI, DENIVA & other NGOs.

The funding of IITC is incorporated in the Ministry's budget, but the funding is for activities in which IITC participates, not specifically the IITC⁶. Furthermore, the process of formally establishing the IITC is still ongoing, and as such it cannot be funded directly by government now (since it is no-existent legally) and cannot have a budget of its own as such⁷ (Elimu, 2004). The research base supporting the Committee has hitherto been minimal. There are no major studies or assessment usually done before or during the preparations but views are often collected through consultations and discussions among stakeholders meeting organized by IITC secretariat in the MTTI. Recently, the EU-funded Uganda Programme for Trade Opportunities and Policy (UPTOP) launched a trade research fund, which was in response to MTTI's request in a bid to improve negotiating capacity. The IITC was expected to greatly benefit from this initiative.

Like most LDCs, Uganda has not been involved in the WTO's Dispute Settlement Mechanism either as a complainant or defendant. While other developing countries have cited financial constraints as inhibiting them from using the mechanism, there is no particular case that has merited Uganda resorting to the dispute settlement process, including request for consultations. It is important to note that only Member governments, and not private enterprises, are eligible to use the Dispute Settlement Mechanism. However, Member countries can begin the dispute settlement process at the request of the business community. To date, there is no known Ugandan case that has been brought to the attention of Government by the business community/private sector for follow up under the WTO dispute settlement mechanism.

It may be the case that the private sector may not be aware of this process and right to use the WTO's dispute settlement mechanism since they have not keenly followed trade issues given that trade matters were remotely treated in the peripheral by the government. Furthermore, most players in the Uganda's private sector are small and they may not even find it feasible to opt for the dispute settlement mechanism. Bigger players in the private sector are in manufacturing, whose main markets are regional where they very rarely find their problems that would necessitate dispute settlement at the WTO level. Others particularly in agriculture (e.g. horticultural products) are too fragmented, and even in most cases, the problems they find are of domestic nature and do not need dispute settlement, e.g. failure to comply with standards. In any case, the SPS Agreement allows countries to use standards higher than the international ones if there is sufficient scientific justification (Article III: 3). Uganda would need to have capacity to dispute the scientific justification provided, which currently is lacking and it would not be feasible to bring a case for dispute resolution when you cannot sustain the arguments involved.

The author is however aware of two cases (regarding the 1997 and 1998 ban on Ugandan fish exports to the European Union) that would potentially have merited dispute settlement. Both 1997 and 1998 bans on Ugandan fish exports to EU arose from allegations regarding *Salamonera* and *Vibrio Cholera* respectively by some EU countries

⁶ The IITC often benefits, mainly in term of local workshop/seminar facilitation, from the *Uganda Programme for Trade Opportunities and Policy* (UPTOP), which is an EU funded four-year program. However, even this limited facilitation is not adequate and definitely not sustainable.

⁷ The IITC is not a formalized body, and as such it has no specific budget since it is not eligible for government funding (and donors would not directly fund it). Donors only fund activities of IITC through projects such as JITAP and UPTOP. In these, money is allocated to project activities and the IITC can request for funding of its activities from a project.

notably Spain and Italy (Rudaheeranwa, et al., 2003: 392), which lacked sufficient scientific justification. The dispute settlement procedure is first for the complainant country to raise the matter in the SPS meetings and where possible attempts are made to settle the complaint bilaterally. The WTO dispute settlement body is used as a last resort. Uganda was unable to pursue both cases because of limited capacity to gather sufficient scientific evidence to challenge/disapprove the allegations and follow up the case. In addition, Ugandan does not regularly participate in the SPS meetings and therefore could not raise and follow such cases in the SPS fora. The limited capacity constrains Uganda from securing (whether internal or international) lawyers for making and defending such cases.

3. Uganda National Bureau of Standards (UNBS) and TBT

Established by the Act of Parliament No. 1 of 1983, the Uganda National Bureau of Standards (UNBS) is a semi-autonomous body under the MTTI that became operational in 1989 with a mandate of promoting standardization and related activities in Uganda. By the time Uganda ratified the TBT and SPS Agreements, UNBS was already carrying out standard formulation, testing, quality assurance, calibration and legal metrology activities. Standards developed before ratification of the agreements were based on regional and international standards. However, standards development capacity of the UNBS was extremely marginal, as it was not operating a quality assurance and certification programme and the UNBS in-house testing facilities were inadequate. UNBS lacked capacities and facilities for the adequate operation of a modern documentation and information system on standards, quality assurance, metrology, testing and related subjects for the benefits of industry, commercial interests and other users of information, an essential requirement of a National Enquiry Point under TBT and SPS Agreements.

Up to now, the UNBS does not have its own permanent premises, which makes its operations (e.g. setting up laboratories) very expensive. The UNBS Act was passed in 1983 but the business climate has changed a great deal since then and penalties set at the time are no longer a sufficient deterrent measure. UNBS is financially constrained and has been getting only 50% of what is desirable (UNBS, 2001) and its service delivery currently meets only about one third of services demand. This under funding undermines the capacity of the UNBS to implement SPS and TBT requirements. For example the Information and Documentation Centre hardly functions. Furthermore, UNBS is not able to participate in IPPC, IOE, ISO, SPS and TBT committees despite being a national enquiry point for SPS and TBT matters mainly due to factors discussed earlier.

Table 2: Approved government funds to the UNBS 1998/99 to 2000/2001 (Ushs)

Financial year	Recurrent (million)	Development (million)	Total (million)
1998/1999	245	800	1,045
1999/2000	188	845	1,033
2000/2001	622	372	994

Note: The exchange rate was about Ushs 1231, Ushs 1447 and Ushs 1566 per US\$1 in June of 1998/99, 1999/00 and 2000/01 respectively.

Source: UNBS Annual report (2001) and exchange rates were extracted from *The Republic of Uganda* (2001)

After 1995, the UNBS benefited from financial and technical support extended by different organisation including UNDP and UNIDO. Consequently its capacity of UNBS was strengthened to enable the provision of integrated services on standardization, quality assurance, testing, metrology and a modern documentation and information support system to promote the development of efficient and competitive industries in Uganda funded from a project worth US\$ 6.8 million. For example, the UNDP/UNIDO assistance of over US\$ 3.6 million in 1997 enabled the UNBS to set up a microbiology laboratory and upgrade two other laboratories (Rudaheranwa, *et al.*, 2003: 380). The South African National Accreditation System accredited the microbiology laboratory at US\$ 20,000 while the preparation for accreditation amounted to US\$ 82,000.

Overall, this support benefited the national enquiry point in a number of ways. First, it resulted into a vibrant national standards formulation programme. UNBS has eight Technical Committees⁸ responsible for the formulation of standards and standards development work has expanded to include metrology, electro-technology, textiles, leather, plastics, pharmaceuticals, mechanical engineering and metallurgy, and pollution control and environment. These standards address priority needs of the private sector enterprises particularly those concerned with fish processing, grain milling, bakery, dairy industry, fruits and vegetables processing, meat processing, animal feeds, wood and wood products, metal fabrication, paper and paper products. UNBS developed capacity and technical capability to operate programmes on product and systems certification, thereby enhancing increased use of the Uganda standard *Quality Mark* and promoting quality consciousness in industry and private sector enterprises while at the same time safeguarding consumers' interest and safety. UNBS was restructured and its technical operations were grouped by programme elements consisting of standards formulation, quality assurance, testing and metrology. UNBS acquired testing facilities in microbiology, chemistry, mechanical, and electrical sectors, which have made it possible for carrying out testing on a wide range of products as part of its integrated quality assurance programme benefiting Ugandan industry and private sector enterprises operating in all sectors of the economy. However, these facilities are still not sufficient given the current high and growing demand for such services.

A standards information and documentation system was established but its functioning status is still wanting. First, the information and documentation centre is not directly linked to the section handling TBT and SPS matters within UNBS mainly because of the fragmentation arising from lack of own home. The information and documentation centre is housed within UNIDO country premises (a short distance away from UNBS). Second, the UNBS' ICT including the website (www.unbs.org) hardly functions and requires upgrading. The current server is about 10 years old, i.e. it is outdated and has low capacity to handle substantial information traffic. There are two options to upgrade this

⁸ These are committees on: (i) Basic and general standards, (ii) Food and agriculture, (iii) Building and Civil engineering, (iv) Metrology, (v) Chemical and environment, (vi) Electro-technology (e.g. solar energy, etc.), (vii) Textile and (viii) Transport and equipment. Although there are 8 technical committees currently, they were only 4 technical committees by 1999 but only one technical committee with only 4 staff in the standards division by 1993. The staff in the standards division increased to 4 in 1999 and to 5 since 2003. The desirable number of technical committees could be as high as 100 (personal discussion with UNBS officials) if sectors are to be subdivided and be given due attention.

ICT and improve the efficient of the information flows regarding the TBT and SPS. The satellite dish connection currently is estimated to cost (i.e. cost of equipment and connection only) about US\$ 70,000 but annual licence fee of US\$ 350 and monthly subscription fee of US\$ 700 are further required for its sustainability. This option is considered to be very expensive (in terms of maintenance costs) and probably less likely to be sustainable. The alternative option is to install and extend an optic fibre (currently estimated at US\$ 1.1 million) from the documentation centre to the rest of UNBS divisions⁹. This would improve the functioning of the national enquiry point for the TBT and SPS at least in terms of information demand and dissemination.

3.1 Challenges facing Uganda in complying with international standards¹⁰

The Uganda National Bureau of Standards (UNBS) is a Correspondent Member of the International Standards Organization (ISO), a member of the African Regional Organization for Standardization (ARSO), National Codex Contact Point, and National Enquiry Point for TBT and SPS and participates in the East African Community Protocol on Standardization, Quality Assurance, Metrology and Testing. UNBS is not actively participating in International Standards development due to financial constraints. Participation in ISO activities has so far been limited to attendance of ISO general assembly. ISO members are divided into three categories: Member bodies, Correspondent members and Subscriber members. The annual ISO membership fee is currently about US\$ 21,000, with which member bodies are entitled to participate in standards setting process and exercise full voting rights on any ISO technical and policy committees. Correspondent members do not take an active part in the technical and policy development work, but are entitled to be kept fully informed about the work of interest to them. The UNBS does not actively take part in the technical and policy development work of international standards at the ISO mainly because it fails to pay membership fees. However, standards so developed affect Uganda despite being kept fully informed about the work of interest to her.

An illustrative example is essential to get a feel of how a resource constrained-country like Uganda finds it difficult to participate in (and contribute to) international standards-setting process. The UNBS (a designated national enquiry point for SPS and TBT) is expected to participate in SPS and TBT committees in Geneva and, on average, there are about 3 SPS and 3 TBT committee meetings annually, each meeting with duration of 3 to 5 days on average. A minimum of 3 representatives is necessary for a country like Uganda to have a meaningful participation (personal discussion with UNBS officials, November 2004). A Kampala-Geneva return air ticket ranges between US\$800 and US\$1,200 depending on the class of travel and about US\$ 200 for daily subsistence is required while in Geneva. Thus if Uganda is to participate in all SPS and TBT committee meetings, it would require about US\$ 21,000 for air tickets and US\$ 18,000 for subsistence annually, without costing other expenses like visa fees, etc. Furthermore, Uganda would need to participate in IPPC, OIE and Codex¹¹ meetings, which are more frequent, if Uganda representatives are to contribute significantly to SPS and TBT debate. The limited financial capacity of enquiry points is largely responsible for the lack of Uganda participation in the process of formulating international standards, which

⁹ Note that, according to the UNBS officials, establishing a home for UNBS is estimated to cost about US\$ 1.5 million.

¹⁰ For details, for example, see Annex E in Rudaheranwa, Matovu and Musinguzi (2003: 410).

¹¹For Codex meeting frequency for example see www.Codexalimentarius.net

constrains Uganda in making her case for difficulties encountered in complying with standards particularly the SPS and TBT agreement.

Although individuals or enterprises are not eligible for membership in ISO, they have a range of opportunities for taking part in ISO's work, or in contributing to the standards development through the ISO membership of their country. The need for a standard is felt by an industry or business sector, which then communicates the requirement to one of ISO's national members. The latter then proposes the new work item to ISO as a whole. The implication of this is that businesses and private enterprises in countries like Uganda, which are not members of ISO, have minimal opportunities for taking part in international standards setting.

UNBS accepted the WTO Code of Good Practice for the preparation, adoption and application of standards under the TBT agreement. UNBS has established National Codex Coordination Committee and National TBT/SPS Coordination Committee to prepare a country position on any TBT and SPS issues among others. It is desirable that each of these committees meets monthly but, due to the limited budget, they meet once every two months. To effectively carry out their duties, these committees would require about US\$ 40,000 annually mainly for facilitating meetings. Members of the committees are from the public and private sector and therefore are perceived to effectively represent the concerns of Ugandan business firms and farmers who are directly by or involved in SPS and/or TBT related implementation issues. Indeed committee members are expected to make their contributions (mainly concerns of their sectors) that are backed by adequate, researched and analysed information.

4. Uganda and WTO Phytosanitary Agreement before 1995

4.1 Phytosanitary services in Uganda¹²

The Department of Crop Protection (DCP), responsible for phytosanitary matters in Uganda, was established in the Ministry of Agriculture Animal Industry and Fisheries (MAAIF) as a separate unit in 1989 in fulfilment of the principles of the International Plant Protection Convention (IPPC). It has a vision of attaining poverty eradication through a profitable, competitive, sustainable, and pest free agricultural and agro-industrial sector. The DCP was basically created to carry out regulatory in operations and to enforce the following legal frameworks and provisions: (i) The Plant Protection Act Cap 244 (1962) and the Attendant Orders and Rules, (ii) The Control of Agricultural Chemical Statute No. 8 of 1989 and the Attendant Regulations and, later on, (iii) The Seed and Plant Statute No. 10 of 1994 and the Attendant Regulations.

The Department of Crop Protection had a responsibility to formulate and review policies and legal provisions for the regulation of crop protection services. It was mandated to undertake a number of activities including (i) carrying out an effective, efficient and timely control of pest and disease epidemics (ii) improving crop protection regulations functional delivery, (ii) increasing the awareness and understanding of crop protection regulations among private and public sector stakeholders about their roles and responsibilities (iii) building human resource capacity throughout the country through skills development programmes (iv) instituting a cost recovery mechanism within the

¹² See Annex 1

agricultural services to support departmental activities (v) monitoring and evaluating crop protection and regulatory activities.

The DCP has had a number of constraints including the lack of space, equipment and inadequate staffing all of which limit the utilisation of the Plant Inspection Services (PIS) laboratory in sample testing and analysis. Instead, the government chemist, Chemiphar Laboratories (u) Ltd (private) and Makerere University food science laboratory and SGS (U) Ltd carry out testing and analysis of samples intended for export and of imported plant and plant products on-behalf of the Department of Crop Protection.

There are however some initiatives currently underway to enhance the ability of the plant Protection Unit in fulfilling its mandate and in meeting the WTO/IPPC standards and regulation requirements. In this regard, a multi-million-dollar diagnostic laboratory facility funded by DANIDA and which will be accredited for testing and analysis of sample for pesticide residues, trace elements and aflatoxin levels is being constructed at Namalere. Once completed, Plant Inspection Services (PIS) will be well equipped to carry out such activities as inspection of plant and plant products entering or leaving the country through the 28 border-posts manned by either a full-time plant inspector or the decentralised plant protection staff based at the district headquarters as per the local government act of 1997. The PIS is in the process of updating and reconstructing border-post facilities and standardizing inspection procedures, creating guidelines for growers/exporters and codes of good practice. These initiatives will involve costs of recruiting extra staff, training both new and existing staff, upgrading and construction and restructuring of facilities, preparation and distribution of operation guidelines, codes of good practice, standardization and inspection manuals is an added cost but, in the long run, the benefits will definitely outweigh the costs.

4.2 Conditions before and after the SPS Agreement in 1995

There were defined standardization conditions before the ratification of the WTO in 1995; ratification was done in 1994 and the Agreement came into effect on 1st Jan 1995 (as noted in Section 2: Uganda and the Uruguay Round) and the Department of Crop Protection (DCP) was enforcing phytosanitary standards and regulations based on the Plant Protection Act Chap 244 (1962), which is still in force. It should be noted that WTO/IPPC guidelines have been made use of in cases where these phytosanitary standards and regulations are inadequate, outdated and/or not exhaustive. In addition, Chapter 244 of the 1962 constitution has been revised and the Plant Protection bill is before the National Parliament for approval. Currently, plant protection work is more or less carried out in accordance with a Plant Health Protection Act, 1990 prepared in cooperation with FAO funded project UGA/87/006 "Establishment of Plant Protection and Quarantine." A number of PIS staff has participated in various meetings to discuss phytosanitary issues, legal frameworks and policy formulation for the following: food safety, GMOs, biotechnology and safe transfer of germplasm, quality assurance standards and other issues influencing international trade.

Currently, the present PIS staffing and infrastructure is inadequate to generate the capacity adequate for complying with (and benefiting from) the WTO trading rules. However the PIS is working towards improvement of physical facilities, diagnostic equipment, communication equipment, transport, incinerators, basic inspection tool kits, etc. There has not been any conditions detrimental for purposes of implementing these multilateral agreement before and after the ratification of the SPS and TBT Agreements

in 1995 since the Department of Crop Protection was established in the Ministry of Agriculture Animal Industry and Fisheries as a separate unit in 1989 in fulfilment of the principles of the International Plant Protection Convention (IPPC). The IPPC guidelines have been helpful and will be beneficial in the future, leading to a boost in the Ugandan economy.

The PIS has a small but qualified number of staff implementing the mandate of DCP though inadequately facilitated and equipped. Further challenges or limitations facing the PIS include inadequate funding and insufficient technical staff to handle the departmental mandate to the desired level. It lacks support staff for the post-entry quarantine stations and for the national seed-testing laboratory, and there is limited retooling of field extension staff under the decentralisation policy. There is limited physical infrastructure including inadequate office space, and lack of incinerators and disposal facilities, lack of transport of inspectors and intercepted materials. There is inadequate epidemic pest control, agricultural chemicals and equipment and insufficient collaboration with international organisations due to inadequate funding and inadequate communication facilities e.g. e-mail and internet.

4.3 Membership to regional and international standards bodies

The Plant Inspection Services (PIS) Unit of the Department of Crop Protection is a member of EAC, COMESA, IGAD, PTA, etc. These bodies helped to lobby for equitable trade and reducing trade barriers. The involvement in these international or regional bodies mentioned has assisted PIS to design short, medium and long-term action plans. There has been a use of WTO/IPPC protocols, i.e. scheme standard with which growers/exporters must comply, (i) in administering WTO/IPPC general regulations, setting tools of regulation and certification (ii) spelling out control points and compliance criteria and procedures in operation manuals and in the codes of practice for traceability, farm record keeping, varieties and rootstocks, GMOs, good agricultural practices and production records, food safety measures etc. (iii) standardising inspection procedures by creating a checklist and inspection manuals, standardization and codes of practice.

The PIS unit has been, and is still, involved in activities leading to certification and recognition of farm/farming communities by international organisations like ISO, EURO-GAP. There have been improved conditions of handling fresh produce and agro-processing establishments through training of inspectors and Quality Assurance Managers on FAO and EU codes of good practice. Second, consultancy services on phytosanitary, seed and agrochemical issues have been sought through these international and regional standards bodies while the streamlining of inspection services through regular training has been possible partly because of Uganda's collaboration with these regional and international bodies.

After the ratification of the WTO Agreement ratified (Article XIV: 1), there have been a number of reforms for implementation of these multilateral agreements. As a result of the new EU regulations on the exports of plant and plant materials, Ugandan exports must undergo international recognition and certification so as to meet the competitive international market demands. Uganda Government has been forced to invest extra funds to meet the EU and WTO requirements; to ensure stakeholder capacity building, increase the number of inspectors at the key exit points and improve the quality of Ugandan exports especially the fresh produce and all this has been done to secure our export market share.

The Department of Crop Protection has had to be restructured and re-oriented to operate in line and harmony with the National Legal and Policy Framework¹³. The DCP has been designated a national competent authority for Phytosanitary inspection services in Uganda. Quality assurance regulations have been formulated while procedures of inspection and quality assurance have been developed, availed to all inspectors and stakeholders. There is recognition for the development of standardisation protocols and codes of practice for the growers, buyers and transporters of fresh produce for export and for the restructuring and updating of infrastructure and facilities at the key border-posts.

As noted earlier, the construction of a multi-million-laboratory facility for testing samples for chemical residues and trace elements prior to export is underway at Namalere. In addition, there has been development of programmes for monitoring pesticide residues, trace elements and aflatoxin levels in samples of plant and plant products. There has been regular training of staff and stakeholders on the EU and WTO standards and regulations and some funds have been allocated for inspection of agricultural inputs, plant and plant products at border posts. Extra phytosanitary inspectors to boost the inspection capacity at both growing areas and exit points have been recruited. The growers and the Department of Crop Protection must ensure a responsible attitude towards worker health and safety especially for those exposed to agrochemicals and fertilizers or soil amendments. Only official registered chemicals must be applied and these should also be acceptable to the importing countries. Consultations must be made regularly.

In order to implement the SPS and TBT agreements, Uganda has had to strengthen the implementation of the SPS requirements through training and setting up a clear WTO protocol for the flow of information and responsibility. The Government has provided technical support to the stakeholders and NGOs in the export of fresh produce to acquaint themselves with the law and enforcement strategies (i) of achieving protection of crops against pests, diseases and weeds with appropriate measures (ii) being mindful of traceability and quality issues particularly moisture levels, humidity and temperature control and to ensure aflatoxin levels below the required minimum to maintain their competitiveness (iii) seeking recognition and certification by international bodies e.g. ISO and EURO-GAP. However, more funds are needed for extra staff recruitment to boost the inspection capacity and for training of inspectors and quality managers both at the center and local government; reconstruction and updating of infrastructure and facilities at the key border-posts, purchase of incinerators, disposal facilities etc. With the high costs of registration and certification there is a fear from the private sector on implementation of the WTO standards and regulations for export.

Obviously, regional standards integration (e.g. multilateral accreditation agreements, regional operated testing facilities, regionally harmonized standards) would reduce costs of implementing the SPS and TBT Agreements through reduced number of inspections for export costs and the time cargo spends in bonds going through numerous checks and time between scheduled shipments. Volume of exports to international markets would increase and the follow-up will be made easier and quicker as information exchange will be quicker and correspondence more accurate while the quality of the

¹³ The national legal and policy framework include but not limited to (i) The 1995 Constitution of Uganda (ii) The Local Government Act 1997 (iii) The Decentralization Policy (iv) The Liberalisation Policy (v) The Privatization Policy (vi) The Plan for Modernization of Agriculture (vii) The Poverty Eradication Action Plan (viii) The National Environment Management Action Plan (ix) The National Bureau of Standards Statute

produce would be maintained. However, regional committees are hindered by inadequate funding to set up essential facilities thus, more funding is required. The Uganda private sector, particularly large-scale growers and exporters, increased their participation in international technical standards setting following the ratification of the WTO Agreement. Some farmers or farmer groups have prepared themselves for accreditation from various accreditation bodies and the number of groups interested in export has increased despite the stringent regulations.

4.4 Further actions for complying with phytosanitary requirements

A lot has been done to bring Uganda into full compliance with the SPS and TBT Agreements. However, more still remains to be done particularly in the following areas of (i) formulating and reviewing policies regarding Ugandan phytosanitary regulations, standards and procedures to accommodate the incoming international regulations (ii) quality assurance and standardisation of Ugandan exports by putting in place guidelines and operation manuals and codes of practice particularly for perishable agricultural exports, fish and fish products, flowers, horticultural, vegetables, etc. (iii) the development of inspection manuals (iv) capacity building of departmental staff and local government (LG) crop protection officers (v) stakeholder training on the importance and implications of the SPS and TBT agreements in the world trade, their roles and responsibilities. The perceptions and role of local consumers could be improved by strengthening consumer protection associations and strengthening (technically and numerically) the UNBS so that it is able to carry out inspect on both imports and exports.

There is a need for coordinating, monitoring and regularly evaluating the level of implementation of the SPS and TBT Agreements on imported and exported products, plant and plant products. Upgrading and restructuring of border-post facilities and handling of the fresh produce and processing establishments to keep within the dynamics of the world market standards and international regulations (SPS and TBT Agreements) is of paramount importance. There is a need for further collaboration with other national and international organisations on appropriate technology generation, standard setting, and regulation and certification of agricultural inputs, plant and plant products. Establishment of a database on regulation and certification of seeds, agrochemicals and phytosanitary activities is equally important.

Actions in some areas mentioned above in relation to SPS and TBT Agreements would be expected to reduce search for information on standards, and monitoring of changes in regulatory environment of Uganda's trading partners. This is already done through notifications to the WTO Secretariat (notifications are then sent to MTTI & UNBS for SPS and TBT). There will be limited barriers on trade related issues in the world market. The implementation and maintenance costs will be minimal especially if it is done at regional levels. Harmonized standards will ensure coherent implementation. Increase in competition in the world market will generate safe and quality products. Revenue on exports to the world market shall enormously be greater for Uganda. Adoption and streamlining the national phytosanitary laws and regulations with requirements of WTO will be essential for the long-term improvement and sustainability of agricultural exports from Uganda as non-tariff barriers to trade will be greatly reduced. Compliance with national and international laws, standards and regulation requirements will enable Uganda to export cargo that complies with the WTO Agreement and as a result consignments will not be required to go through rigorous inspections and repeated sampling and testing (and associated transaction costs), which are time consuming, and

leading to lower product quality. Ugandan products would in the long run be able to compete favourably on the export markets. As a result of harmonised standards, the quality and quantity of Ugandan exports on the world market will increase and the economy and the welfare of the people will be boosted. However, achieving this is not easy due to the funds required.

5. Sanitary standards in the fish sector and WTO Agreement since 1995

5.1 Institutional and infrastructure arrangement

UNBS was the Competent Authority as regards sanitary standards in the fish sector up to 1999 and the Department of Fisheries (DFR) was the inspection body. However, the Department of Fishery Resources (DFR) took over both the competency in and the inspection services in 2000. Under this new arrangement, local authorities at the district level have remained the local inspection body for fish at the landing sites. The Government chemist laboratory was responsible for the sample testing and analysis up to 2000 when it was deemed incompetent by the EU inspection mission to Uganda. Chemiphar Laboratories (u) Ltd (private) took over the analysis and testing of the samples after seeking accreditation from an international body and recognition from the UNBS and it is still an institution handling fish and fish product samples along side UNBS and SGS (U) Ltd. Landing sites have been put up mainly by the private sector while government is developing about 35 landing sites in various water bodies. Government has set up Uganda Fisheries Laboratory (UFL) for in house checks and analysis and monitoring of the operations of the Industry.

5.2 SPS Agreement before and after 1995

Little information existed in the Department of Fisheries Resources (DFR) as regards SPS and TBT Agreements before 1995. However, even with the available information, conceptualization of SPS and TBT was ambiguous. Uganda had no specific *Quality Assurance* regulation on which to base the enforcement. This problem was exacerbated by limited availability of experts for consultation on issues pertaining to SPS. After entry into force in 1995 and experiences got as a result of the EU fish Ban in Uganda, matters of the SPS and TBT agreements come in to being as government of Uganda sought to seek for audience of the WTO in order to address the issues. With the coming into forces of the EU Council Directive EEC 91/493/EEC of 22nd July 1991, Uganda opened up to seek for guidelines on implementation of the market demands in relation to SPS requirements and agreements. On one hand, it was thought that Uganda should have gone to the WTO to lodge a case of unfair trade regulation since it was thought to have been TBT case. Overall, the finding of the assessment was that it was an SPS rather than TBT issues. It is worth noting that the EU used the precautionary principle (Article V: 7) of the SPS Agreement. There are no records in Government to show that consideration of the WTO dispute settlement mechanism ever took place. Instead, Uganda invoked articles 9 and 10 (1) of the SPS Agreement to seek technical assistance from the EU so as to be able to comply with the EU SPS requirements.

Knowledge and competence of the Competent Authority was lacking in all areas particularly staffing, technical expertise, facilities and equipment for testing and analysis. This therefore meant that all institutions involved in ensuring safety and quality of fish and fish products were incompetent to carry out their roles.

There were no defined standardization conditions before the ratification in 1995. However, ad hoc services existed with no protocol and standards. No specific standards existed apart from those in the Fish Act 1964, which were not exhaustive. The limited and outdated regulations in the fish sector created inconsistency and lack of harmony among inspectors.

5.3. Uganda's involvement in international or regional standards setting

As a result of that experience over a period of four years, Uganda thought it prudent to join hands with its neighbors (Kenya and Tanzania) as a region to source for technical support to address issues pertinent to the cause of the frequent bans under Lake Victoria Fish Organization. By virtue of Uganda's membership in the EAC, COMESA, IGAD, previously PTA, etc, these bodies helped to lobby for equitable trade and reducing trade barriers from developing countries.

Following the turmoil period, many institutions interested in the fish sector formulated an action plan to address the issues that created the problem. Among the strategies developed were, raising the awareness on among the stakeholders on the need to improve and address the SPS requirements. Short, medium and long-term action plans were developed including the setting of tools of regulations based on CODEX standards and guidelines on the operation manuals and procedures (see www.ufpe.co.ug or www.lakevictoriafish.com). There was improvement of conditions for handling fish and fishery products along the chain (upstream) and fish processing establishments through training of inspectors and Quality Assurance Managers on FAO codes of practice. Inspection services were streamlined through regular training and development installation of an IT system for audit reporting while private establishments in processing of fish underwent international ISO recognition and certification. Bans of Uganda's fish exports to EU member states gave an opportunity to fish processing establishments in Uganda to undergo ISO certification for purposes of meeting the international standards and recognition above the competitive international market demands. The international accreditation was partial facilitation from the donor agencies.

After the ratification of the WTO Agreement there were reforms necessary for implementation of these multilateral agreements. First, the competent authority (CA) for enforcing standards and regulations in the fish sector shifted from Uganda National Bureau of Standards (UNBS) to the Department of the Fisheries Resources (DFR). Second, the DFR became the umbrella body responsible for both inspection services and competency. Third, quality assurance regulations, standard operating and inspection procedure for fresh fish for export were developed in 1998. Third, the Department of Fisheries Resources was restructured to ensure compliance with national and international standards. Fourth, a programme for monitoring Pesticide residues and trace elements in water sediment and fish from Lake Victoria was put in place while fund allocation for inspection of landing sites and fish-processing establishment was allotted scheduled inspection programmes were designed. Finally, more staff was recruited to boost the inspection capacity and training of inspectors and quality managers.

In order to implement the SPS and TBT agreements, the government needed to strengthen the implementation of the SPS requirements at upstream through training of the local fish inspectors at landing sites, district stakeholders, and setting up a clear protocol for flow of information and responsibility. The government also provided

technical support to community-based organizations (CBO) and non-governmental organizations (NGO) in the fish sectors to acquaint themselves with the law and enforcement strategies. Training and staff development was addressed through support from UNIDO and LVFO project funding. As a Competent Authority, the DFR informs the private sector through the association (Uganda Fish Processors and Exporters Association - UFPEA) such issues regarding any development and/or laws in force and the National Notification Authority (i.e. MTTI) also receives and distributes notifications on all issues including TBT and SPS from WTO Members, and liaises with relevant stakeholders for follow-up. Chemiphar Laboratories was established to carry out the testing and analysis of samples at a cost of US\$ 1 million and the operation of this laboratory has helped assessment of the Uganda fish quality and safety. It has helped in confidence building within the EU fish consumers as regards fishery products originating from Uganda and has provided employment. In the light of fish ban the sector went through, the private sector perceptions regarding the government's action were positive. However, high costs of analysis have raised concerns within the private sector on implementation of the mandated testing and analysis of every consignment for export as required by the regulation.

As noted earlier, inadequate resources have limited the Uganda's participation in international organizations (e.g. Codex and ISO) charged with the setting of standards. However, the private sector did use the above organizations – by way of complying (not participating in standards setting) and the results are that many establishments complied with the international standards (e.g. ISO). Regional standards integration or multilateral accreditation agreements, regional operated testing facilities, regionally harmonized standards) would reduce costs of implementing the SPS and TBT Agreements. First, it would expedite the process of implementing the SPS and TBT Agreements. Second, more funds would be sourced as a block through the regional committees. Third, the cost of setting up essential facilities would be minimal per individual state and in case of technical barriers then regional bodies would help argue cases out.

The awareness of the Uganda private sector regarding international technical standards setting has increased following the ratification of the SPS and TBT Agreements. Almost all fish processing establishments have sought accreditation from accreditation bodies. Several private sector bodies have emerged as a result of the need to improve on the fish sector development and thus generate revenue (e.g. UFPEA). The discussion on SPS and TBT is has concentrated almost on the fish sector mainly because recent fish bans raised these concerns both in the public and private sector. However, SPS matters are of equal concerns in other sectors such as horticulture and flowers and are likely to be more of serious constraints to Ugandan exports as chemical residual limits and traceability requirements become more stringent in market of major interest to Uganda exports notable the European Union.

6 Conclusion

A major difficulty in the formulation and enforcement of standards facing Uganda is the institutional weakness arising from inadequate infrastructure and capacities, inadequate technical know-how in standards development processes, little awareness and access to international standards among relevant stakeholders, and limited participation in international standards formulation process. Full operation of technical regulations are hampered by a number of constraints, including inadequate capacities to interpret and translate international technical regulations, limited participation in the formulation of

technical regulations, poor coordination among agencies responsible for technical regulations, inadequate funding, and inadequate stakeholder participation in formulation of technical regulations. A lot has been done in areas of standardization and quality control, however, more needs to be done. First, there is a need for further training or awareness-raising among the stakeholders (including legislators) on the importance and implications of the SPS and TBT of the WTO Agreement. Second, strengthening of IITC and UNBS to regularly evaluate the level of implementation of the SPS and TBT requirements of imported and exported products is essential. Government institutions, namely the focal point ministry (MTTI) and line ministries of Health and Agriculture, Animal industry and Fisheries, mandated to do this task need to be strengthened. Third, regulation, standards, and procedures in Uganda should be updated to accommodate rather dynamic market-driven and mandatory standards. Finally, upgrading and restructuring the infrastructure-relating to compliance with market-driven standards and international standards (SPS and TBT Agreements) is still wanting.

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