

**GOOD REGULATORY PRACTICE TO SUPPORT THE DEVELOPMENT AND
IMPLEMENTATION OF SPS MEASURES**

**CONCEPT NOTE ON FUTURE STDF WORK
FOR DISCUSSION BY THE STDF WORKING GROUP, 20-21 MARCH 2017**

INTRODUCTION

1. In March 2016, the STDF Working Group requested the STDF Secretariat to prepare two concept notes on possible future STDF thematic work on the following topics: (i) good regulatory practice (GRP) to support the implementation of international standards; and (ii) the implementation of international standards in a public-private partnership context (with attention to private certification schemes). The Working Group discussed both concept notes at its meeting on 20-21 October 2016, and several members expressed interest in future work on both topics. In view of the resources available within the Secretariat, as well as other activities in the Work Plan for 2017-2018, the Working Group agreed for the Secretariat to revise the note on GRP for discussion by the Working Group in March 2017. The revised note should incorporate relevant aspects related to PPPs and pay attention to inclusiveness and poverty impacts.

2. As described in the STDF Medium-Term Strategy, the identification and dissemination of good practice to support SPS capacity building is an important component of the STDF's work. The STDF work on GRP will be developed and implemented on this basis, and the outputs will contribute directly to output 2 of the STDF logical framework.¹ Reflecting the STDF's focus on strengthening SPS capacity to help gain and maintain market access, this new work will concentrate on how GRP can be used to improve the quality and effectiveness of SPS measures to ensure health protection and facilitate trade, including through the reduction of non-tariff barriers. SPS policy-makers and staff of SPS regulatory authorities in developing countries are the main target audience. In addition to benefitting national governments, this work is likely to generate value for private sector stakeholders involved in trade, as well as domestic stakeholders as a whole, including consumers, the poor and vulnerable groups.

3. This revised concept note incorporates comments and suggestions provided by STDF partners (FAO, IPPC, OIE and WTO) by mid-February 2017. The note is structured as follows. It begins with an introduction to the meaning of the term "Good Regulatory Practice". Then it discusses the linkages and synergies between this new STDF work on GRP and previous work carried out by: (i) the STDF (particularly on the implementation of SPS measures to facilitate safe trade); (ii) STDF partners, including discussions within the SPS and TBT Committees, and related to the development and implementation of food safety, veterinary and phytosanitary legislation, as well as some other relevant initiatives; and (iii) work by other international organizations, national governments and regional bodies on GRP. Lastly, the note explains the purpose and expected value of new STDF work on GRP, and outlines its scope and expected outputs.

WHAT IS GOOD REGULATORY PRACTICE?

4. The OECD defines regulation as any instrument by which governments, their subsidiary bodies, and supranational bodies set requirements on citizens and businesses that have legal force. The term thus encompasses a wide range of instruments from primary laws and secondary regulations to implement primary laws, to subordinate rules, administrative formalities and decisions that give effect to higher-level regulations (e.g. the allocation of permits) and standards.²

5. Good regulatory practices are defined as internationally recognized processes, systems, tools and methods to improve the quality of regulations and ensure that regulatory outcomes are

¹ See Annex 1 of the STDF Work Plan for 2017-2018.

² OECD. 2010. Regulatory Policy and the Road to Sustainable Growth. See: <https://www.oecd.org/regreform/policyconference/46270065.pdf>

effective, transparent, inclusive and sustained (World Bank, 2015). Good regulatory practices provide governments with tools, processes and strategic approaches to make sure that regulations are "fit for purpose" and that they deliver what they set out to achieve.³ They can also help to identify and evaluate trade and other (intended or unintended) effects of regulatory action.⁴

6. Different approaches and practices can be used to support and enhance the development of regulations, evaluate their effectiveness and introduce changes or improvements, where needed. Public consultation and stakeholder engagement on new regulations at the drafting stage is a key pillar of regulatory development and a core principle of GRP. This includes consultation with the private sector (including small and medium sized enterprises), as well as with other parts of civil society (such as consumer groups). Other principles include coordination and cooperation on the development and implementation of regulations (for instance to avoid internal inconsistencies or repetition), transparency, *ex ante* and *ex post* evaluation of regulations, etc.

7. Many public authorities see a strong value in the use of GRP to consult more widely (with the private sector as well as civil society including consumer groups), achieve greater buy-in from relevant stakeholders, and increase confidence that regulations are feasible and appropriate to deliver the expected outcomes. Regulatory authorities applying GRP have made gains in the development of laws and regulations, which has important benefits for the implementation of legislation, which profits society in general. In addition, the application of GRP principles contributes to the process of improving transparency, which can support efforts to move towards electronic SPS certification and reduce trade costs. It also contributes to a stable and transparent environment that allows the private sector to flourish, which in turn helps to create employment, promote economic growth and reduce poverty.

LINKAGES TO WORK OF THE STDF, STDF PARTNERS AND OTHERS

GRP and links to previous STDF work

8. As highlighted during the Working Group meeting in October 2016, GRP is related to previous STDF work, particularly on the implementation of SPS measures to facilitate safe trade, and would be of considerable benefit to developing countries to support their SPS regulatory agencies. One of the recommendations of the STDF regional research work on implementing safe trade focused on the need to apply GRP in SPS legislation.⁵ The research findings highlighted how the application of GRP in the preparation, adoption and application of regulations to implement SPS measures, international standards and conformity assessment procedures helps to avoid unnecessary obstacles to trade. It noted that existing practice in the preparation and review of SPS legislation often falls short of OECD recommendations on GRP, and pointed to the need to regularly review and update SPS legislation (for instance due to changes in the economic environment, demands for health protection, new food safety, pest and disease risks, commercial challenges, compliance with international requirements, etc.). This work concluded that the development of guidance for GRP would be useful to support the preparation and review of SPS legislation in general, and regulations for implementing SPS measures in particular.

9. The application of GRP provides a tool to support governments to review and streamline their SPS measures, simplify procedures and provide services in a more user-friendly way for businesses. In some cases, the review and update of SPS regulations lags behind new developments and changing needs, which creates concerns regarding obsolete legislation. Some STDF partners have further observed that, in some cases, regulatory frameworks are not sufficiently agile to keep pace with the dynamic international disease situation and the ongoing development of science. Work on GRP is therefore likely to assist governments to achieve an appropriate level of health protection while facilitating trade, which will have win-win impacts for both the government and the private sector, especially in cases where resources are limited.

10. In past STDF work related to public-private partnerships and implementing safe trade, representatives of the private sector have highlighted the importance of a regulatory framework

³ See: <http://www.oecd.org/gov/regulatory-policy/grpn.htm>

⁴ Robert Basedow and Céline Kauffmann. International Trade and Good Regulatory Practices. Assessing the Trade Impacts of Regulation. OECD Regulatory Policy Working Paper. July 2016. See: http://www.oecd-ilibrary.org/governance/international-trade-and-good-regulatory-practices_5jlv59hdgtf5-en;jsessionid=1km1c1y879197.x-oecd-live-03

⁵ See: http://www.standardsfacility.org/sites/default/files/Implementing_SPS_Measures_to_Facilitate_Safe_Trade_SE_Asia_Aug-2014.pdf

that is as straightforward as possible, that makes it easier for businesses (particularly small and medium sized enterprises, which encounter the highest costs of an overly complex regulatory burden) to trade their food and agricultural products across borders. The private sector has also highlighted the value of a level playing field, transparency and predictability in the way in which SPS measures are implemented, as well as the benefits of meaningful consultation and engagement with business as part of the process of designing and implementing SPS-related regulations.

11. Several completed and ongoing STDF projects have components on legislation covering food safety, animal and/or plant health. FAO and OIE are collaborating on some STDF projects to support the development of new legislation on animal health. While the legislative elements of past STDF projects have not specifically focused on GRP as a stand-alone element, the experiences and recommendations are likely to be relevant.

Discussions on GRP in the SPS and TBT Committees

12. Good regulatory practice has been discussed briefly in the SPS Committee. During the Second Review of the SPS Agreement, Mexico proposed that the Committee consider developing guidelines that would promote practical implementation of the specific provisions of the SPS Agreement, including guidelines on good regulatory practice, to enable Members to check that the obligations of the SPS Agreement have been respected before adopting new SPS measures.⁶

13. The TBT Committee has recognized that "Good Regulatory Practice (GRP) can contribute to the improved and effective implementation of the substantive obligations under the TBT Agreement. Effective implementation through best practices is seen as an important means of avoiding unnecessary obstacles to trade. Institutionalizing the various mechanisms, processes and procedures of GRP through laws, regulations and guidance, as well as through the creation and designation of institutions within Member governments to oversee regulatory processes, is seen as a means of giving effect to GRP. Effective internal policy coordination, including among regulators, standardizing bodies and trade officials implementing the TBT Agreement, is stressed. Additionally, regulatory cooperation between Members is an effective means of disseminating GRP".⁷

14. The TBT Committee has organized a number of workshops on GRP since 2009. In 2012, with a view of furthering its work in this area, the TBT Committee agreed to identify a non-exhaustive list of voluntary mechanisms and related principles of GRP and to guide Members in the efficient and effective implementation of the TBT Agreement across the regulatory lifecycle in a number of areas. This work by the TBT Committee is also relevant for the SPS Committee and implementation of SPS measures.

GRP and links to work of STDF partners

15. STDF partners (including the international standard-setting bodies) have extensive experience in the development and implementation of SPS-related legislation, including substantial capacity building and technical cooperation activities, which is highly relevant to GRP. They have developed considerable guidance to support member countries in developing legislation related to food safety, animal health and plant health, and implementing international standards and related texts. A number of publications, guidelines and other legal papers exist that address and support the use of GRP in the area of food, phytosanitary and veterinary legislation, as well as on biosafety, invasive alien species, risk analysis and other areas of relevance to the SPS Agreement.

16. FAO's Development Law Service helps member countries analyse and improve their laws governing agriculture, food and natural resources management, and has been involved in hundreds of advisory projects, supporting a wide variety of law reform activities in many different fields. FAO divisions are also involved in collaborative work with OIE on specific areas such as Anti-Microbial Resistance (AMR) and Peste des Petits Ruminants (PPR). In addition, FAO implements many technical cooperation projects and other activities to support food safety, such as work on strengthening food import controls, which includes guidance to countries on various aspects and principles of GRP. Reflecting this importance, the new FAO/WHO Food control assessment tool will include a section on the use of GRP.

⁶ See G/SPS/W/166, 27 October 2004.

⁷ Note by the Secretariat. Decisions and recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995. G/TBT/1/Rev.12. 21 January 2015.

16. Similarly, past and ongoing work of the IPPC is of relevance to the topic of GRP. One of the core modules of the IPPC/FAO Phytosanitary Capacity Evaluation (PCE) tool focuses on assistance to contracting parties to self-assess their capacity needs in the area of phytosanitary legislation. Specifically, this module helps to diagnose major gaps in the current national framework of phytosanitary law/act, regulations and standards, to identify improvements needed in the medium term for creating coherent and up-to-date phytosanitary legislation that protects plant health and support international safe trade of plants, plant products and other regulated articles. FAO has also developed "Guidelines for the revision of national phytosanitary legislation" to distil the experience and lessons from implementation of diverse phytosanitary capacity building activities. These guidelines discuss the many essential and desirable elements that should form part of a modern national phytosanitary legal framework. They also identify the issues that ought to be considered by governments in reviewing their existing regulatory frameworks on plant protection, especially in light of the new revised text of the IPPC and the SPS Agreement. Complementing its work on SPS legislation, the IPPC has also developed approaches to support engagement with stakeholders.⁸

17. OIE is also involved in a range of work of relevance to GRP. The development and efficient implementation of legislation is included among the 47 critical competencies in the OIE PVS Tool for the Evaluation of Performance of Veterinary Services. The Veterinary Legislation Support Programme (VLSP) of the PVS Pathway focuses on conducting veterinary legislation identification missions, at the request of OIE member countries, to identify gaps in legislation affecting the veterinary domain (including food safety, disease control, import/export, etc.). The VLSP also offers countries assistance in developing new or amended legislation to address gaps identified during identification missions. In 2010, the OIE organized a global conference on veterinary legislation.

18. In 2012, OIE members adopted new standards on veterinary legislation (Chapter 3.4. of the OIE Terrestrial Animal Health Code). Applicable worldwide, this new OIE standard provides "strong support for policies to enhance the effectiveness of national veterinary services, based on the adoption of standards of quality and the development and implementation of tools made available to Member Countries, such as the PVS Pathway". An OIE Editorial emphasizes that: "A notable innovation in the new standard is the inclusion of a definition of the quality of veterinary legislation, namely "the technical relevance, acceptability to society, sustainability in technical, financial and administrative terms and provision of a basis for effective implementation of laws". This implies that, when developing veterinary legal standards, it is important to carefully consider not only their technical relevance but also their social, economic and administrative impact and, most importantly, the capacity of operators and controllers to sustainably finance their implementation and supervision."⁹

19. Ongoing work by the World Bank to support selected countries to review their SPS legislation in the context of trade facilitation objectives is highly relevant to the planned STDF work. There are also synergies to the World Bank's work on Enabling the Business of Agriculture, the Global Indicators of Regulatory Governance project, and the new four-year World Bank/USAID/UKAid programme on Good Regulatory Practice to improve regulatory quality in developing countries.¹⁰ This programme aims to help governments in transition and developing countries to enhance the quality of regulatory regimes and their outcomes. It will focus on a number of regulatory tools to enhance transparency, accountability and dialogue, and will collect and review lessons and experiences to enhance the impact of these tools and promote application of these tools in operational World Bank Group projects.

20. In addition, there may be linkages to work by WHO to adapt the general principles of GRP to the regulation of medical products to support its Member States to establish new regulatory systems for medical products and update existing ones.

⁸ For instance, the IPPC "Guide on Managing Relationships with Stakeholders" provides guidance on the establishment and maintenance of successful relationships with stakeholder, addressing aspects including communications and facilitating stakeholder input on phytosanitary policy.

⁹ New standard on veterinary legislation. Article on the OIE website (see: <http://www.oie.int/for-the-media/editorials/detail/article/new-standard-on-veterinary-legislation/>).

¹⁰ See: <http://pubdocs.worldbank.org/en/57401456860309504/Good-Regulatory-Practice-Program-Overview-03-15.pdf>

Links to work by other international organizations, as well as relevant regional / country level initiatives

21. The OECD and others have recognized that regulations which are poorly-conceived and/or inadequately implemented can become an obstacle to achieving the very economic and social well-being for which they are intended. That is, regulatory arrangements can sometimes impede innovation and create unnecessary barriers to trade, investment and economic efficiency. They may involve duplication between regulatory authorities and different layers of government, and between governments of different economies. Similarly, regulations that are outdated or poorly designed to achieve their intended policy objectives contribute to inefficient regulatory arrangements.¹¹ One recent study, which approaches regulatory cooperation as a sort of trade facilitation mechanism, cites various empirical studies which show how cooperation mechanisms such as harmonization and/or recognition can increase trade and facilitate efficiency.¹²

22. The need to improve the quality of regulations and ensure that standards promote so-called "better" trade to enhance the competitiveness of small and medium-sized enterprises (SMEs) is underlined in ITC's SME Competitiveness Outlook for 2016.¹³ The publication highlights that standards and regulations are an integral element in enabling companies to operate their businesses and trade, and that they play a critical role at each step in the value chain. At the same time, it emphasizes that standards and regulations, when poorly designed and implemented, are most likely to negatively affect SMEs (particularly in developing countries), which suffer the highest costs of compliance and largest impact of procedural obstacles. The report notes that "further progress in promoting good regulatory practices could be considered in the WTO."

23. Another paper for the E15 Initiative¹⁴ examines regulatory cooperation and regulatory coherence in the context of the world trading system, with some attention to good regulatory practice. The focus is on the TBT and SPS Agreements, described as "the most far-reaching examples of cooperation in the WTO".¹⁵ This paper notes that the quality of a domestic regulatory process is enhanced through the use of good regulatory practices, transparency and stakeholder engagement. It makes a number of "substantive recommendations" and policy options, for instance to: (i) consolidate and strengthen the current transparency obligations (e.g. to consult the business community and other affected parties about new proposed legislation at an early stage, explain measures adopted including why alternative courses of action were rejected); (ii) assess the trade impact (*ex ante* and *ex post*) of regulations; and (iii) encourage the implementation of international standards. At the same time, this paper recognizes that "developing countries with a limited administrative apparatus may find some of the options difficult to implement, and thus underscores the need for capacity building".

24. Governments in OECD countries have spent considerable efforts developing approaches and tools to support the use of GRP in developing regulations, including in the SPS area. Examples include the Australian Government Office of Best Practice Regulation, which seeks better regulation not just more regulation. In the UK, the Better Regulation Executive works with government departments to measure regulatory burdens and coordinate their reduction, and to ensure that the regulation which remains is smarter, better targeted and less costly to business. The EU has implemented an ambitious programme of better regulation aimed at consolidating legal instruments, improving their quality and clarity, and ensuring the regulations deliver policy goals in the most efficient way. Several other examples exist. Many of these efforts reflect extensive work and guidance by the OECD to help governments pursue systemic regulatory reform to deliver

¹¹ ASEAN Good Regulatory Practice (GRP) Guide. Endorsed by the 2/40 SEOM Meeting, 2-4 February 2009, Bangkok, Thailand. See: [http://asean.org/wp-content/uploads/images/2012/Economic/sectoral_aem/standards_conformance/ASEAN%20Good%20Regulatory%20Practice%20\(GRP\)%20Guide.pdf](http://asean.org/wp-content/uploads/images/2012/Economic/sectoral_aem/standards_conformance/ASEAN%20Good%20Regulatory%20Practice%20(GRP)%20Guide.pdf)

¹² Van Tongeren, Frank, Véronique Bastien, and Martin von Lampe. International Regulatory Cooperation, a Trade-Facilitating Mechanism. E15 Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2015. See: <http://e15initiative.org/publications/international-regulatory-cooperation-a-trade-facilitating-mechanism/>

¹³ ITC. 2016. Meeting the standard for trade. SME Competitiveness Outlook. See: <http://www.intracen.org/uploadedFiles/SMECO2016.pdf>

¹⁴ The E15 Initiative was launched by the International Centre for Trade and Sustainable Development (ICTSD) in 2011. It convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business and civil society geared towards strengthening the global trade and investment system for sustainable development. See: <http://e15initiative.org/>

¹⁵ Mavroidis, Petros C. 2016. *Regulatory Cooperation: Lessons from the WTO and the World Trade Regime*. E15 Task Force on regulatory Systems Coherence – Policy Options P. E15 Initiative. ICTSD/WEF (available at: http://www3.weforum.org/docs/E15/WEF_Regulatory_Cooperation_Lessons_WTO_WTR_report_2015_1401.pdf).

regulations that meet public policy objectives and have a positive impact on the economy and society.¹⁶

25. Improving the quality of regulation is also increasingly a priority for governments in developing countries. For instance, the OECD and ASEAN have collaborated on good regulatory practice since 2010 in an effort to make the ASEAN region more dynamic and competitive. Good regulatory practice is considered as a cross-cutting theme for ASEAN connectivity, competitiveness and regulatory coherence, is closely linked to the ASEAN Agenda Post-2015, and supports ASEAN Member States' strategies to implement the United Nation's post-2015 Sustainable Development Goals. In 2005, the Asia-Pacific Economic Cooperation (APEC) and OECD developed an Integrated Checklist on Regulatory Reform, which sets out 11 criteria for better regulation, consistent with the OECD Principles. Experiences in Malaysia have highlighted that producing regulation through a more robust process of analysis and stakeholder engagement (including with the private sector) enhances efficiency and accountability, and also promotes greater participation, inclusiveness and ownership of the end solution of government intervention.¹⁷

26. In the Pacific Region, governments have adopted a standard approach to developing legislation to ensure they follow GRP. Other countries in Asia are known to be doing work related to GRP. For instance, the Department of Agriculture in the Philippines is working with the government's "PROJECT REPEAL" (which aims at reducing the regulatory burden and cost of doing business across all government agencies) to identify ways to streamline agriculture-related regulations. The ASEAN Secretariat is planning to work with its Member States to "develop guidelines on how to formulate and apply SPS measures that follow international standards so as to maintain the sovereign right of ASEAN Member States to provide the level of health protection it deems appropriate, and ensure that these sovereign rights are not misused for protectionist purposes and do not result in unnecessary barriers to trade."¹⁸ Based on the initial information available, it appears that the ASEAN work would directly address many aspects of GRP.

27. Dialogue, consultation and collaboration with diverse stakeholders – including the private sector and industry, as well as other parts of civil society (e.g. consumers groups) – are essential pillars of GRP. Governments in some countries are actively engaged in strengthening collaboration with the private sector and other civil society stakeholders to improve service delivery. This addresses various aspects of GRP. For instance: (i) consulting the private sector on new policy initiatives and legislation that impact their activities; (ii) publishing and making available draft legislation for comments and inputs by diverse stakeholders; (iii) leveraging the expertise, knowledge and experience of the private sector in further upgrading service delivery mechanisms; and (iv) considering feedback from the private sector and other stakeholders to enhance the efficiency and effectiveness of services.

28. For instance, in Asia, the food industry has been engaging ASEAN leaders and policy-makers on ways to enhance ASEAN's regional competitiveness including how to create effective and meaningful partnerships with relevant public and private sector stakeholders (including SMEs) across a range of areas, including in the area of GRP.¹⁹

STDF WORK ON GOOD REGULATORY PRACTICE

Applying GRP to improve the development and implementation of SPS measures, based on international standards and the SPS Agreement

29. Reflecting the STDF's mandate to strengthen SPS capacity to help gain and maintain market access, the planned STDF work will focus on how GRP can be used to improve the quality and effectiveness of SPS measures to ensure health protection and facilitate trade. This work will be

¹⁶ In March 1995, the OECD developed a Recommendation on Improving the Quality of Government Regulation, the first internationally accepted set of principles concerning regulatory quality (see www.oecd.org/gov/regulatory-policy/35258511.pdf). In March 2012, the OECD adopted the Recommendation of the Council on Regulatory Policy and Governance, the first international instrument to address regulatory policy, management and governance as a whole-of-government activity targeted at sectoral ministries, regulatory and competition agencies (see: www.oecd.org/gov/regulatory-policy/2012-recommendation.htm).

¹⁷ See OECD 2015: http://www.keepeek.com/Digital-Asset-Management/oecd/governance/implementing-good-regulatory-practice-in-malaysia_9789264230620-en#.Wli5gNLR8dU#page5

¹⁸ Personal communication with ASEAN Secretariat

¹⁹ Food Industry Asia. See: <https://foodindustry.asia/good-regulatory-practice-essential-in-the-implementation-of-the-ae>

anchored on the SPS Agreement with particular attention to principles and good practices to support the development and review of regulations to implement SPS measures. Limiting the focus and scope of the STDF work in this way will ensure that it targets and supports the STDF's core mandate, and complements the range of related activities led by STDF partners and others.

30. Regulation provides an important mechanism to recognize public and private roles and responsibilities in public-good related areas, including food safety, plant protection and animal health. It is also an important tool for preserving and advancing diverse public interests, including food safety, animal and plant health. The provisions of the SPS Agreement seek to address the quality of regulatory intervention by requiring that Members choose measures that, inter alia, are based on scientific evidence and an assessment of the risks, have the least impact on trade, avoid discrimination, and ensure transparency (including by notifying draft measures and providing an opportunity for comments).

31. In particular, Article 3 of the SPS Agreement encourages governments to establish national SPS measures consistent with international (i.e. Codex, OIE and IPPC) standards, guidelines and recommendations (often referred to as "harmonization"). Ensuring that SPS measures are based on international standards is the most effective way to ensure health protection and facilitate safe trade. The use of international standards provides a cost-effective and straightforward approach to support the development of better regulations. In cases where governments decide to regulate, it is essential to consider whether a relevant international standard exists that would support the regulation. GRP processes should be followed during the process of using international standards as a basis for national regulation and standards.

32. Article 5 of the SPS Agreement focuses on an assessment of risk and determination of the appropriate level of sanitary or phytosanitary health protection. It encourages Members to ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations. In assessing risks, this article encourages Members to take into account, as relevant, economic factors. In addition, when determining the appropriate level of sanitary protection, Members are expected to "take into account the objective of minimizing negative trade effects" (para 4, Article 5). The SPS Unit has a simple checklist, for training purposes, to help regulators assess whether their SPS measures are consistent with the SPS Agreement.

Purpose of the STDF work

33. The purpose of the STDF work on GRP will be to identify good practices and recommendations to enhance the development and implementation of SPS regulations and SPS measures in order to strengthen the effectiveness of regulatory interventions, improve compliance with international standards and the SPS Agreement, and ensure health protection while facilitating trade. As indicated above, this work will be anchored in the SPS Agreement. As such, it will provide guidance to ensure that SPS regulations are "fit for purpose" and that they avoid the creation of non-tariff barriers. An analysis of SPS regulatory frameworks for trade will also be useful to explore how GRP principles can be used to take better account of complex and dynamic science and health status considerations affecting trade.

34. The STDF work on GRP will be used to bring this subject (in an easily understandable form) to the attention of SPS policy-makers and staff of SPS regulatory authorities in developing countries, as well as the private sector. In addition to generating benefits for governments and the private sector, this work is likely to generate wider benefits for society as a whole. For instance, the application of GRP in the SPS area is likely to enhance and strengthen programmes focused on private sector development, which make a vital contribution to poverty reduction, growth and social inclusion. Engagement of the private sector in the design, review and monitoring of the implementation of SPS regulations can help to strengthen the implementation of SPS measures in a way that is inclusive and participatory, and that also focuses on gender and empowering women to participate in market activity and trade.

35. In particular, STDF work on the topic of GRP will be used to:

- (i) increase awareness among SPS authorities about the meaning, role and value of GRP to improve the implementation of SPS measures in a way that ensures health protection and facilitates trade.

- (ii) consider how to adapt existing principles and recommendations on GRP to support the development, implementation and periodic review of SPS regulatory frameworks.
- (iii) identify and disseminate experiences, lessons learned and good practices on the use of GRP to improve the quality of SPS regulation as a means to strengthen SPS outcomes and reduce costs.
- (iv) take stock of key capacity building needs to improve the quality of SPS regulation.

36. The importance of meaningful engagement and consultation with relevant stakeholders, including the private sector and SMEs, will be a major element of this work.

37. While this work will focus on SPS regulations linked to trade, the recommendations and good practices identified may be of value to enhance regulations in other areas not directly linked to trade.

38. The planned STDF work on GRP would build on and learn from relevant existing work by STDF partners, other relevant organizations (notably the OECD) and any related initiatives at the regional or country level. Following the Working Group meeting in March 2017, consultations would be organized with relevant staff of STDF partners and other organizations to discuss options for synergies and collaboration in more detail.

EXPECTED OUTPUTS

39. The scope of future STDF work on this topic would comprise the following outputs, which would be made available on the STDF website and be further disseminated through the STDF's network. STDF partners and other Members of the Working Group are invited to provide additional guidance to further refine the expected outputs:

- i. Online survey on country/regional level awareness and application of GRP in SPS regulation**
 - o A simple online survey would be drafted by the STDF Secretariat and shared with STDF partners for comments prior to finalization.
 - o The purpose would be to obtain information on the status of knowledge of GRP among SPS authorities in developing countries, and any relevant work to apply GRP in the SPS area. Such a survey could complement ongoing work on Measuring Regulatory Performance within OECD countries.²⁰
 - o The survey would be distributed via Survey Monkey. Emails including web links to the survey would be distributed to the target audience. The survey would be distributed (unofficially) to members of the SPS Committee, as well as relevant national authorities responsible for food safety, animal and plant health.
 - o The STDF Secretariat would draft a report of the survey findings, which would be disseminated initially to the STDF Working Group. The final survey report would subsequently be shared with the SPS Committee and via the STDF website.
- ii. Session on GRP in the SPS area during an STDF Working Group meeting**
 - o Organization of a short focused session (approximately 2 hours) on the use of GRP during an STDF Working Group meeting (possibly in October 2017).
 - o This session would be used to present and discuss the findings of the above-mentioned survey, as well as relevant work and experiences on the use of GRP in the SPS area by STDF partners, donors and other organizations (e.g. OECD).
 - o Presentations and any other background documents would be shared on the STDF website.

²⁰ OECD Measuring Regulatory Performance Programme. See: <http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm>

iii. Compilation of short case stories describing experiences, results and lessons related to the use of GRP in the SPS area and checklist on the use of GRP to enhance the development and implementation of SPS regulations

- A collection of case stories (based on feedback to the online survey, suggestions from Working Group members and other consultations/research) will be identified and documented.
- The purpose will be to share relevant experiences, outcomes and lessons of work related to GRP in the SPS area, particularly from developing countries, wherever possible. Experiences related to private sector engagement and collaboration with regard to the design, implementation and review of SPS regulations will be an integral part of the case studies.
- These case stories would be compiled in a short STDF document, distributed on the STDF website and shared with the STDF Working Group and other relevant audiences.
- Relevant experiences and good practices on GRP, identified through the case stories and additional consultations with STDF partners, would be distilled and synthesized into a checklist on the use of GRP to improve the development and implementation of SPS regulations, based on the SPS Agreement. This checklist would provide practical guidance and recommendations to support the preparation and review of regulations for implementing SPS measures. It would set out key pillars and principles of GRP.
- A selection of these case stories would be presented during the STDF seminar (see below).

iv. STDF seminar on the implementation of good regulatory practice in the SPS area.

- Organization of an STDF seminar (up to 2 days) on the use of GRP, possibly on the margins of an SPS Committee meeting at the WTO (March or July 2018?).
- This seminar would be used to share experiences, practices and lessons in the use of GRP in the SPS area. Representatives of SPS authorities in developing countries and the private sector would be invited to share experiences, as well as selected STDF partners, donors and other organizations.
- Presentations and background documents would be shared on the STDF website.

v. STDF Briefing Note

- An STDF Briefing Note would be prepared (in English, French and Spanish).
- The Briefing Note would focus on the role of good regulatory practice in improving the development and implementation of SPS measures, provide information on available experiences, results and lessons particularly in developing countries, and include a checklist for regulators in developing countries responsible for the development, enforcement and/or review of SPS regulations.

Timeframe and budget

40. The STDF Work Plan for 2017-2018 includes an estimated budget of USD100,000 (USD50,000 for each year) for work on GRP. An indicative time-frame and budget for the expected outputs is provided below. Based on the discussion of this concept note during the Working Group meeting in March 2017, the STDF Secretariat would begin planning for these activities.

Output	Delivery	Inputs	Estimated budget (US\$)
Online survey and draft report on the application of good regulatory practices in SPS regulation	August 2017	<ul style="list-style-type: none"> Time of STDF Secretariat to draft, conduct and report on the survey Time of STDF partners to comment on the draft survey 	-
Session on good regulatory practice in the SPS area within an STDF Working Group meeting	October 2017	<ul style="list-style-type: none"> Time of STDF Secretariat Costs related to participation of external speakers 	10,000
Compilation of short case stories describing experiences, results and lessons related to the use of GRP in the SPS area	March 2018	<ul style="list-style-type: none"> Time of STDF Secretariat, STDF partners and other contributors External consultant 	- 25,000
STDF seminar on the implementation of good regulatory practice in the SPS area	July 2018	<ul style="list-style-type: none"> Time of STDF Secretariat Costs related to participation of external speakers (including STDF partners) 	50,000
Discussion in the Working Group (half day) to take stock of progress in implementation of the above-mentioned activities (including the case studies and draft checklist), any other outstanding needs and follow-up	Oct. 2018	<ul style="list-style-type: none"> Time of STDF Secretariat, STDF partners and other Working Group members 	
STDF Briefing Note	Dec. 2018	<ul style="list-style-type: none"> Time of STDF Secretariat to draft and finalize note Time of STDF partners to review and provide comments 	