Implementing SPS measures to facilitate safe trade in Thailand

Study conducted for the
Standards and Trade Development Facility (STDF)*

by

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** The findings, interpretations and conclusions expressed in this paper are entirely those of the author. They do not necessarily represent the view of the STDF or any of its partner agencies or donors, or of national authorities in the countries considered in this research.

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Acronyms and abbreviations

ACFS	Agricultural Commodity and Food Standards
Codex	Codex Alimentarius Commission
EU	European Union
DLD	Department of Livestock Development
DMS	Department of Medical Science
DOA	Department of Agriculture
DOF	Department of Fisheries
FAO	Food and Agriculture Organization of the United Nations
FDA	Food and Drug Administration
FIQD	Fish Inspection and Quality Control Division
GAP	Good agricultural practices
GHP	Good hygiene practices
GMP	Good manufacturing practices
HACCP	Hazard Analysis and Critical Control Points
ICT	Information and Communication Technology
IT	Information Technology
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization
ISPM	International Standards For Phytosanitary Measures
ISSB	International standard setting bodies
MOAC	Ministry of Agriculture and Cooperatives
MOPH	Ministry of Public Health
MRL	Maximum residue level
NPPO	National Plant Protection Organization
NSW	National single window
OIE	World Organisation for Animal Health
PC	Phytosanitary certificate
RGC	Royal Government of Thailand
SOP	Standard operating procedures
SPS	Sanitary and Phytosanitary
STDF	Standards and Trade Development Facility
THB	Thai Baht
TPR	Trade Policy Review
TFFA	Thai Frozen Food Association
USA	United States of America
US FDA	United States Food and Drug Administration
WHO	World Health Organization
WTO	World Trade Organization

I. Introduction

This document is one of four country studies conducted in Southeast Asia (Cambodia, Lao PDR, Philippines and Thailand) as part of STDF regional research on the implementation of SPS measures to facilitate safe trade.[1] Parallel regional research was carried out in Africa by the STDF, in collaboration with Trade Mark Southern Africa, and in Latin America by the Inter-American Development Bank (IDB). The preliminary findings of the regional research were presented at an STDF thematic session in Geneva on 26 March 2014.

The inspiration for the STDF research is the increased interest in developing countries and the trade and development community in trade facilitation, which is also evidenced by the adoption of a new WTO Agreement on Trade Facilitation in December 2013.[2] It is based on the common understanding that trade can be an important tool for economic growth and the reduction of poverty. The objectives of the STDF regional research are: (i) to draw attention to the synergies between the implementation of SPS measures and trade facilitation; (ii) to identify key needs, opportunities and good practices to improve the implementation of SPS measures in a way that ensures an appropriate level of health protection while minimizing trade transaction costs; and (iii) to make recommendations to enhance future work and technical cooperation focused on SPS and trade facilitation.

Members of the WTO have the sovereign right to restrict trade for the protection of human, plant and animal life or health against trade-related risks, provided that they follow the relevant principles of the WTO and, in particular, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).[3] The main principles of the WTO framework are that SPS measures should be non-discriminatory, transparent, science-based and not more trade-restrictive than required to achieve the appropriate level of protection. SPS measures that meet these principles are considered as legitimate non-tariff measures.

The SPS Agreement requires WTO Members to accept measures of other Members that are equivalent in providing the appropriate level of protection. It also strongly encourages Members to harmonize their measures by adopting international standards, guidelines and recommendations developed by three international standard setting bodies (ISSBs), notably the Codex Alimentarius Commission (Codex), the International Plant Protection Convention (IPPC), and the World Organisation for Animal Health (OIE). However, countries are allowed to apply stricter requirements as long as these measures are based on scientific justification, which includes an assessment of risks. Countries may also apply fewer and less stringent standards, or opt not to apply international SPS standards, provided that this does not affect the rights of other countries under the multilateral trade rules.

[1] For more information, see: http://www.standardsfacility.org/facilitating-safe-trade

[2] WT/MIN(13)/36 , WT/L/911, WTO, Ministerial Conference, Ninth Session, Bali, 3-6 December 2013. Annexes to the Agreement are being prepared, with full acceptance planned by 31 July 2015. Much work will be required on implementation of the TF Agreement and on alignment with the SPS Agreement. The STDF research focuses on the general broad concept of trade facilitation, and not on the new TF Agreement.

[3] The text of the SPS Agreement is included in the Final Act of the Uruguay Round of Multilateral Trade Negotiations, signed in Marrakesh on 15 April 1994, and is available on the WTO website http://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm#fnt5

Trade facilitation refers to the simplification and harmonization of required processes, procedures and information flows for border clearance. Trade facilitation is optimal if transaction costs for legitimate trade are as low as possible.[4] If SPS measures do not disrupt trade more than necessary to achieve the appropriate level of protection, then they are in harmony with trade facilitation. If the transaction costs of SPS measures to traders are higher than necessary to achieve the appropriate level of protection, they should be considered as trade-disruptive.

The SPS Agreement focuses mainly on principles to observe in protecting human, animal or plant life or health and less on practical implementation modalities. Nevertheless, the Agreement also provides guidance in several articles, and in particular in Annex C, on control, inspection and approval procedures, and on avoiding unnecessary trade disruption and transaction costs for traders. The ISSBs referenced in the SPS Agreement (i.e. Codex, IPPC and OIE) focus on the development of international standards for health protection, some of which provide guidance for good practice on topics referred to in Annex C and related to trade facilitation. However, a comprehensive compilation of good practice guidance for the implementation of SPS measures does not exist.

Most WTO Members are still in the process of incrementally applying WTO principles correctly. As a result, in many countries, SPS measures deliver less health protection than desirable and disrupt trade more than necessary. The reasons for non-compliance variously include lack of awareness, limited capacity in SPS management, weak governance, health protection measures that are unnecessarily costly, insufficient funding of SPS operational costs, and use of SPS measures for purposes other than health protection (e.g. protection of domestic production/industry or rent-seeking). Complexities and inefficiencies in SPS control processes may also cause extra administrative and internal business costs to traders.

The research in Thailand collected and analyzed information on how selected SPS measures are implemented in practice for specific product groups based on the provisions of the SPS Agreement and selected texts of Codex, IPPC and OIE. It explored the transaction costs of SPS measures for selected product groups, and considered how improving compliance with WTO principles can facilitate trade and contribute to better health protection. This report presents the findings of this country-level research. It is structured as follows. Section II outlines the methodology for the research in Thailand, which reflects the approach taken in all the countries included in the research in Southeast Asia. Section III presents the key findings, followed by an analysis in Section IV. The final section offers recommendations for improved implementation of SPS measures in Thailand.

II. Methodology

The following paragraphs discuss key terms used during this research and delineate the parameters and scope of the data collection, analysis and findings.

Definition of costs The SPS Agreement does not define transaction costs. Since it refers in principle to all costs that may affect trade, this study recognizes the following four kinds of costs incurred by traders.

[4] From economic growth and poverty reduction points of view, unnecessary transaction costs on imports and exports are undesirable because they reduce purchasing power of consumers, waste public and private resources and undermine competiveness.

1. Official fees and charges for services based on regulation and imposed by SPS measures, including the cost of application forms, service charges, inspections, sampling, testing and diagnostics, treatment and quarantine cost, issuance of certificates, etc.
2. Informal payments, not based on regulation, under many different names, including tea money, under the table payment, payment for entertainment, meals, transport, speeding up service provision, overtime fees, special presents, gratitude, services for which no formal fees apply, etc.
3. Administrative costs for enterprises, including cost and staff time for preparation of documents, submission, consultation with officers, tracking the status of decision making, reminders by phone, actions to speed up the process, and contingency planning.
4. Internal business costs, including long lead-time from planning to sale, extra storage and interest cost, spoilage of goods, missed orders, uncertainty.

Product selection SPS measures can vary widely for products because of their risks as carriers of pests, diseases and food safety hazards, their physical characteristics, origin, and intended use. For this reason, the regional research in Southeast Asia focused on the following four groups of products:

1) rice and other field crops
2) fruit and vegetables
3) shrimp and other fisheries products[5]
4) chicken and other meat products

The regional research did not address products with special risks such as seed and propagation materials, and live animals. In Thailand, the research focused on the import and export of shrimp and food safety of imported goods. In addition, a few observations are made on other products and broader issues.

Imports and exports This study focuses on exports and imports of the above mentioned product groups. It is important to note that WTO SPS disciplines apply to imports, and therefore even exports of a country are largely regulated from the perspective of the SPS requirements of importing countries. The general thrust of the WTO disciplines is that if all Members comply with WTO principles, including the principle that SPS measures should be least restrictive to trade, then trade opportunities will be optimal from the WTO SPS perspective.[6] The SPS Agreement does not impose similar disciplines on exports. But, it does define obligations of exporting countries to provide information about their pest and disease situation and food safety hazards at the request of importers. The ISSBs provide some more guidance on export- and import-related procedures such as inspections, conformity assessment and certification.

The SPS Agreement is not concerned directly with the possible unnecessary costs to exporting countries stemming from their own costly and unnecessary measures. By contrast, trade policy departments in most countries and the development community place much emphasis on

[5] For Thailand, only shrimp was included. For the other countries involved in the regional research, other fisheries products were included if there was insufficient information about shrimp.

[6] The SPS Agreement in a footnote to paragraph 6 of Article 5, states that a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

promoting exports through trade facilitation because of its expected impact on growth, employment and poverty reduction.

Finally, this research could not cover transit trade, because regional agreements for goods in transit are still deficient, only partly implemented and not fully clear on SPS requirements.[7]

Sources of information The Government and the private sector were both important sources of information. The research started by interviewing the relevant competent authorities to get their information about the applicable legal framework, mandates, procedures for application of export and import release, number of documents required, fees that apply, official waiting time, ICT application and sources of information for traders. This was followed by interviews with traders in order to collect information on how the procedures are actually implemented in practice.

Use of questionnaires Detailed questionnaires addressing many relevant items of transaction costs associated with SPS measures were designed and used as a general guide for interviews with government officials. Shorter questionnaires were used with the private sector based on the business processes for SPS clearance of goods (See Box 1). Most private enterprises did not have more than an hour to be interviewed, which put limits on the details that could be collected. Sometimes, some issues that were not very relevant for the overall picture, had to be ignored. More importantly, some important country-specific issues, such as institutional and policy issues had to be captured by expanding information gathering beyond the questionnaire.

Box 1. Questions for interviews with private traders

For imports, questions included:

1) Describe the steps required for SPS clearance for import of [product], agencies involved, pre-requirements of foreign producers/traders, foreign product safety assurances etc., requirements importer/buyer, warehouse/cold storage, licenses, import permits, traceability requirements, if any.
2) Document requirements at the border, fees, waiting times, standards to comply with, testing and quarantine requirements, etc.
3) Is information about SPS import requirements readily available? What are main sources of information? Websites, printed material, information from officers, legislation, trade associations, broker/trade forwarder? Is information fully available and reliable?
4) Availability of IT for submitting applications. Can applications be submitted online? Can forms be downloaded?
5) Closing questions: Describe any bottlenecks in the SPS release process from the perspective of the importer. Recommendations?

For exports, questions included:

1) Describe the steps required for SPS clearance for export of [product], agencies involved, pre-requirements of foreign producers/traders, foreign product safety assurances etc., requirements importer/buyer, warehouse/cold storage, licenses, export permits, foreign import permit, traceability requirements, if any.
2) Document requirements at the border, fees, waiting times, standards to comply with, testing requirements, etc.
3) Is information about SPS export requirements readily available? What are main sources of information? Websites, printed material, information from officers, legislation, trade associations, broker/trade forwarder? Is information fully available and reliable?
4) Availability of IT for submitting applications. Can applications be submitted online? Can forms be

[7] Inclusion of transit trade in this study would have required significant additional data collection and travel.

downloaded?

5) Closing questions: Describe any bottlenecks in the SPS release process from the perspective of the exporter. Recommendations?

Source: the author

Field work and confirmation workshops Field work was carried out during October and November 2013. It included interviews with relevant competent authorities (i.e. the Department of Fisheries and the Food and Drug Administration), a study of the legal and institutional framework and interviews with about 10 specialists in exporting and importing private enterprises and freight forwarders. Private sector information is based on confidential interviews and verification where relevant. Relevant Government agencies were asked for comments on drafts of the report in late December 2013 and March 2014, prior to its finalization.

III. Findings

Description of Thailand's SPS system

Thailand became a WTO Member in 1995. It is one of the main agricultural exporters in the world with diversified exports. Given its relatively high income, urbanization rate and modern retail systems, domestic consumers demand significant diversity, quality and safety of food. Thailand started to develop its SPS system earlier than Cambodia, Lao PDR and the Philippines (the other countries included in this regional research) and both the public and private sector have relatively well-developed capacity to implement SPS controls. However, given the country's diversified production, exports, imports and consumer markets, it continues to face many SPS challenges.

MOAC has the mandate for control of pests and diseases, quarantine of plant, animal and fisheries products, safety of agricultural inputs and good agricultural practices (GAP). It is also leading in SPS management for Thai exports. These mandates are implemented through three line departments: (i) the Department of Agriculture (DOA); (ii) the Department of Livestock Development (DLD); and (iii) the Department of Fisheries (DOF). MOAC also houses the National Bureau of Agricultural Commodity and Food Standards (ACFS), which is, among others, responsible for setting standards, monitoring and accrediting certification bodies for all types of exported food, and agricultural commodities. The SPS Enquiry Point and Notification Authority are located in ACFS.

Within DOF, the Fish Inspection and Quality Control Division (FIQD) plays the central role in ensuring the food safety of fisheries products for export. Responsibility for fish diseases is with the DOF fish disease control unit. The Quarantine Division controls imported shrimp. DLD represents Thailand at the OIE.

The Food and Drug Administration (FDA), under the Ministry of Public Health (MOH), is responsible for food safety of imports. Fisheries inspectors cooperate with FDA. MOPH has the mandate for food safety controls for imports and the domestic market. FDA is the main agency for food control. It employs pre- and post-market controls, and surveillance. The Department of Medical Science (DMS) provides support for all analytical services and all food control laboratory testing.

Thailand participates actively in the WTO Committee on Sanitary and Phytosanitary Measures. As of 17 June 2014, Thailand had submitted 298 SPS notifications, including regular and emergency notifications and addenda.[8]

Border control

FDA The main law governing food safety is the Food Act of 1979. FDA's main task is to implement this law. It controls food establishments and the production and import of food products. A 2003 Cabinet Ordinance gives FDA responsibility for controlling food safety on imports and MOAC on exports. MOAC also checks imported primary meat and fish products, and reports food safety violation issues to FDA.

MOPH conducts inspection at 44 border posts and ports; 9 of these have food inspectors, the others have general MOH staff (under the office of the permanent secretary), who check on a range of health related issues, including food safety. FDA checks on safety and quality issues as far as they are specified in a regulation. There is delegation of authority to other competent authorities, such as DOF and DLD on animal and fisheries products, as indicated above. Customs may raise alerts about suspect food shipments and inform MOPH.

MOPH has capacity for risk assessment on imported products, but it is only carried out for special products and special situations. Risk management on imports is based on history. There is on-going work on risk profiles. Thailand has no bilateral protocols on food safety with other countries; by contrast, MOAC has many bilateral protocols related to primary plant and animal products.

In principle requirements are the same for all border posts and countries, but it is acknowledged that on some borders controls are less effective and there is much informal border trade and smuggling. Thailand is a main importer and transit country for agricultural and food products from its neighbors (Cambodia, Lao PDR and Myanmar). Public and private sector SPS capacity in neighboring countries is still limited with many gaps. The borders are porous and there are sometimes major problems of rent seeking on both sides of the border. This poses a dilemma for SPS controls on these borders; without effective controls unsafe products may enter, but with tight controls the amount of informal trade and smuggling increases. Therefore, there is intensive post-entry control within Thailand along the Northern border.

Thailand requires food establishments and importers to obtain manufacturing and importation licenses from FDA with renewal every three years. The procedure for obtaining an import license is not difficult and costs 20,000 THB (US$625). Inspectors visit premises at least once a year. A requirement for importers is that they need to keep records about their sources for traceability, and they have to provide copies of GMP and other assurance requirements about their sources (factories, etc.). Importers (like domestic producers) need to have proper storage for their products and are permitted to rent premises. Health certificates are generally not required, only in cases of specific hazards, such as food scandals, radiation, etc. Testing by importers is also only required for specific cases.

The law distinguishes "specially controlled foods", "standardized foods", and "other foods". If a food product, either manufactured or imported, is categorized as "specially-controlled food", it must be

[8] WTO SPS Information Management System, http://spsims.wto.org

registered.[9] An analysis of the product and details of the production process and ingredients are required for the registration process. “Standardized foods” need not be registered, but have to meet the standards specified in the standards.[10] Import permits are generally not required by FDA, only for specific products, but more often by MOAC for reasons of plant and animal quarantine.

At entry, documents are submitted to Customs and if the products are subject to food safety checks the documents are given to the food safety inspector for checking. On average 10% of products are sampled for testing and 90% are released without sampling. This is based on an annual program, partly random and partly based on risk. For some products, the sampling rate is lower and for other products higher. Imported shrimp, for example, are 100% sampled because of the risk of antibiotics. Checking documents takes only half an hour and the food inspector can stamp the Customs declaration within a few hours. In case of sampling, import clearance takes one day because the cargo has to be opened for which the importer and Customs have to be present. Nearly all sampled products are released immediately after sampling. Non-compliance issues are added to the history of the company and country of origin. In few cases, the product is released to a bonded warehouse only, awaiting test results and further consideration. Controls at entry are free of charge; the costs of sampling and testing are borne by the Government.

FDA is linked to the National Single Window (NSW)[11] for some products only; much work is still needed to bring all products within the system. The target is to complete this in 2014.

Present practice is that products are checked on the border at arrival. For the future, FDA is considering a system where import permits are requested on-line for all products ahead of arrival. Food inspection will then be able to make decisions about inspection ahead of arrival and FDA will be able to build history of compliance of products, countries, importers and manufacturers.

DOF Thailand is the main exporter of shrimp in the world with about 380,000 tons of shrimp exported per year. Many of the exported products have undergone value added processing, such as ready-to-eat and ready-to-cook products. In addition, Thailand exports some 18,000 tons of deep sea shrimp. Most exported shrimp is frozen, but Japan, Korea and China also import live shrimp for consumption because of its freshness. Import of shrimp in Thailand for consumption, adding value and re-export is limited. It is controlled by the Quarantine Division for diseases and by FDA for food safety.

The main legislation applicable to fishery products is: the Fisheries Act of 1947, the Food Act of 1979, and the Export and Import Control Act of 1979. In addition there are many regulations and administrative directives to implement the laws.

Export requirements for fisheries products depend on country of destination and nature of the product. Most countries have detailed specific requirements without a bilateral protocol or agreement. DOF has signed bilateral protocols with Canada, South Korea, South Africa and China. Protocols / agreements can refer to limited specific requirements, such as product standards.

[9] A Food Committee advises which products are classified as specially controlled foods.
[10] http://www.fda.moph.go.th/eng/food/pre.stm
[11] Following the ASEAN Agreement to Establish and Implement the ASEAN Single Window by the ASEAN Economic Ministers, of 9 December 2005, six countries committed themselves to establish a NSW by 2008. The Customs Department is leading implementation in Thailand and ultimately 30 Government agencies with responsibilities for import and export will be linked to the electronic system. The full implementation is taking more time than anticipated.

Companies are free to choose which port to use for import and export. There are no differences in requirements between ports/border posts. At present, there is no delegation of authority to other agencies.

Most shrimp exporters are members of the Thai Frozen Food Association (TFFA), which pre-checks for health certificates and peer-screens companies that can export. TFFA has 194 members, of which 120 are food companies and others are involved in packaging, etc. For export of cultivated fisheries products, good aquaculture practice (GAP) is required with registration of fish ponds by the responsible division, with a low fee of about 100 THB (US$3). All food establishments have to be registered with FDA, which involves compliance with minimum standards. For exporting shrimp to countries that require a health certificate, DOF also requires processors to obtain GMP and HACCP. There is no fee involved, but the cost for GMP and HACCP adoption has to be paid by enterprises to private service providers if their buyers require additional certification schemes. Some countries have additional requirements, such as the EU for cold storage.

Export permits are not required for shrimp, except perhaps for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Since exporting companies have HACCP, they have responsibility to check the safety of their suppliers and to monitor their own safety. DOF only verifies HACCP implementation and samples based on the number of cartons and risk. For established companies with a good record, a health certificate has to be requested 3 days before shipment. They are sampled only once every 2-3 months. If violations are found, the intensity of controls will increase. New enterprises are controlled intensively. They need to be accepted in the approved list of exporters, and during the first 6 months they need to request a health certificate 15 days in advance of shipment for which every lot needs to be sampled and tested. Thereafter, control requirements depend on performance. Most countries do not request a veterinary statement in the health certificate for shrimp, but China does.

No fees are involved to obtain health certificates required by importing countries. DOF always addresses importing country requirements on health certificates. If companies want a voluntary health certificate, they need to obtain a test report from a private service provider and pay laboratory costs themselves.

Ten years ago, the DOF Quarantine Division developed an e-based system for quarantine import permits. However, a new joint system is being developed for DOF to link permits and applications for health certificates to the NSW. All present DOF policies use grouping of products. For integration into the NSW, product groupings and names need to be translated into HS codes, which requires much effort.[12]

In the future, DOF intends to delegate more inspection functions to the private sector, using accredited private sector inspection companies and accredited private laboratories. DOF will focus more on supervision and special issues and leave routine inspection to the private sector.

Transparency

FDA has a well-established website in Thai language and a good but less detailed English version. The Thai website has information about procedures and requirements, where relevant per product,

[12] One remaining problem is that different names and terminology are used by Customs and DOF (e.g. breaded shrimp). The problem can be with Customs, which sometimes uses national HS terminology which differs from what is common abroad and that can cause major problems with Customs and Quarantine services abroad.

forms that can be downloaded, waiting time for procedures, and some information on fees. FDA has also some written pamphlets.

DOF provides comprehensive information about export requirements on websites in Thai language, but very limited in English. Pamphlets are also available. Application forms can be downloaded. Because of the complexity in requirements, many exporters call FIQD to be sure. There is a Government rule about target time for each service to be provided. When this rule came into force, the FIQD had to report to DOF about recorded actual waiting times, now it monitors the process internally. DOF hardly charges fees and there is no information on fees on the website.

TFFA issues a monthly newsletter about seafood. Fish exporting companies always inquire first with their customers about requirements for import in the country of destination. If they are not sure they will ask staff of TFFA to check information with their data base. For established traders of shrimp, information availability is not a real constraint.

Document requirements and controls

Application for a license to import food should be accompanied by 6 documents and a set of photos, location map and plan of the storage area. The targeted approval process takes 7 working days (Table 1). However, registration of "specially controlled food" takes 35 working days and licensing for a food establishment 20-60 days.

Table 1. Document requirements for application for a food import license from FDA

1	A copy of domestic registration [of the applicant]. If an applicant is alien; a work permit in Thailand which issued by the Labor Department shall be attached.
2	A copy of Trade or Commercial Registration.
3	A copy of company registration which declares objectives and authorized person of the company.
4	A copy of certifying nationality of company (List of shareholders) from the Ministry of Commerce. If an applicant is alien, a certificate of operating business in Thailand is also required.
5	Certificate of proxy to act on behave of applicant entity (for juristic person) with excise tax of 30 Baht. The company stamp is also required if it specified in the company registration.
6	2 Sets of the following scaled plans and photo
6.1	Location map of the importation premise, storage area and nearly buildings.
6.2	Storage area plan indicating.
	6.2.1 its surroundings
	6.2.2 adequate area for each food item
	6.2.3 adequate ventilation and lighting system
	6.2.4 equipment for methods for keeping quality of food which shall be installed (if necessary)
7	Certification of Application for Import Food into the Kingdom License.

Source: http://www.fda.moph.go.th/eng/food/details/importDoc.stm accessed 24 December 2013

With increasing income and changing lifestyles, imports of fruit and vegetables from temperate countries is increasing rapidly. Document requirements are very limited (Table 2). Import of "specially controlled foods" is much more demanding than import of fresh food and other common food products, because the products have to be registered first.

Table 2. Document requirements for import of processed and fresh plant products for food

	General requirements
1	Thai Customs import permission
2	CO for free trade agreements (FTA) (tax purpose)
	Plant products#

1	PC from country of origin (DOA requirement)
2	GAP (not required for all countries)[13]
	Processed food (common)
1	HACCP of manufacturer

Source: reported by importers
Note: # for fresh product no GMP of packing house required

Private respondents report that document requirements and waiting times for border clearance are much lower than in the past. Usually, waiting time on the border is a matter of one day only. There remain significant differences in waiting time because of differences in management between border posts and dedication of staff of Customs and other agencies. Also efficiency and performance among SPS agencies reportedly differs. The performance of DOF is considered relatively favorable among MOAC agencies. A health certificate for export of shrimp requires 3 days, during which all documentation from the company regarding traceability from fish pond to factory are checked.

Reported costs

Government fee rates on mandatory services are nil or low. Import controls by FDA for food products and health certificates for exports of fisheries products by DOF are free of charge. An import license for food is easy to obtain, moderately expensive (US$625), and valid for three year. Costs related to adoption of GMP and HACCP and voluntary testing services and certificates depend on private providers. FDA provides guidance for HACCP and DOF provides supervision. Companies need to develop HACCP plan themselves, for which they can find specialists and auditors from private and public service providers. Exporters can choose from a series of private and public laboratories, and mostly have an annual contract with one. A nitrofuran certificate can be required which costs US$70. Exporters reported that for shrimp exports, the total private and public costs of meeting SPS requirements are about US$1,000 per container of shrimp (same for 20ft or 40ft). Membership of TFFA costs about US$1,000/year.

Compliance with requirements in export markets can cause high investments and high handling costs for exporters. These costs cannot be avoided and they can form a barrier for new entrants and small enterprises. The adoption of automated processes for the NSW will require additional investments. Small companies need to hire IT experts to be able to participate. For the time being they use services from bigger Customs brokers and logistic enterprises.

Some traders involved in exports of plant products complain that costs are higher than necessary because of insufficient application of risk-based controls by DOA. This is not an issue for shrimp exports, but it may also apply to imports of fresh fruit and vegetables, and shrimp from safe sources.

Rent-seeking and informal payments to border agencies remain an issue which increases costs and reduces predictability of border release conditions. DOF is not reported to have much payment under the table; its standing in this respect is relatively favorable compared to Customs and other SPS agencies.

General impression on costs While there are further possibilities to rationalize import and export release processes, total costs related to SPS measures for enterprises (including

[13] If there is GAP then reportedly easy to pass DOA, otherwise difficult

administrative and business costs) are generally considered reasonable by traders. The release processes are generally efficient, and traders have room to implement SPS requirements in cost-effective ways.

IV. Analysis

In several respects, the Thai SPS system looks more like those in developed countries than those of its neighboring countries and the Philippines, although it still has many capacity challenges. Since its exports and imports are well-diversified in terms of product range, demand for quality and safety, and requirements of supply chains, Thailand needs capacity to carry out a broad range of SPS controls, including very sophisticated services in some cases. The Thai SPS system needs to serve a modern export industry, as well as traditional production and distribution systems in rural areas and on its land borders. The way these challenges are solved is in essence similar to trends in developed economies, i.e. main responsibilities for compliance are with private enterprises, especially in the modern export and distribution segment. SPS agencies formulate the requirements and supervise implementation by the private sector. The trend towards more responsibility for the private sector and less direct responsibility for Government continues.

The interpretation and analysis of the findings of the research in Thailand focuses on three aspects.

1. What is the effectiveness of the controls in terms of health protection and trade promotion?
2. How efficient is the SPS system?
3. Points of weak compliance with the SPS Agreement

Effectiveness of SPS controls

Border release processes are backed up by substantive controls and focused on hazard prevention.

Market access Hazard prevention and issuance of health certificates for fisheries products are necessary for access to formal markets. Most other controls do not contribute to market access. In addition, the country needs capacity for bilateral and multilateral SPS negotiations with trading partners.

The fisheries export sector implements risk-based SPS controls in which hazard prevention and performance of enterprises are major factors. It has market access all over the world and can meet the demanding requirements of importers.

Exporters of shrimp with good ratings do not have mandatory testing for each shipment but they apply rapid testing themselves. If the test indicates a problem, which is sometimes a false alarm, they keep the container in cold storage until a full microbiology confirmation test has been done. While this delay is costly, it is preferable to the risk of losing their “A” rating because of a non-compliance notification from abroad.

Health protection Food safety depends on hazard prevention, inspections and surveillance on imports and domestic production. SPS food safety controls for products from developed countries and formal processing plants seem to be effective. There are still many gaps in the food control system for food products from domestic production and neighboring countries. As is generally the case with food safety systems in developing countries, the Thai system implements relatively demanding controls for formal imports and formal urban markets, and weak controls for informal

local markets (dual system). Better SPS controls of trade from neighboring countries and informal markets remains a challenge. Control of fish diseases requires hazard prevention, inspections and surveillance on imports and domestic production and risk analysis.

General status The SPS system functions effectively as a tool for market access[14] and is moderately effective as a tool for ensuring domestic food safety.

Efficiency of SPS controls

Costs of food safety controls on imports by FDA are high because, reportedly, some control is not risk-based. For example, all imported shipments of shrimp and temperate fruit and vegetables are sampled, regardless of safety assurances that come with the product, the origin of the product, and the performance record of the importer. Sampling always involves some cost for the importer for samples taken and waiting time of one day, but the cost to MOPH of 100% sampling and testing[15] can be very high and is most likely higher than necessary.

Controls of shrimp exports are risk-based and seem to be cost-efficient. Private service provision of testing for exporters is competitive and there are no major duplications between public and private efforts. In this respect, the fisheries export sector is ahead of the export sector of plant products, which requires export permits for each shipment of 16 fruit and vegetable products to the EU and Japan, regardless of the hazard prevention systems in place and exporters' performance. This involves a significant loss of time, which is crucial for fresh product exports, and duplication of public and private controls.

General status The performance of the SPS food safety control system against health hazards is moderately efficient.

Points of weak compliance with the SPS Agreement

Possible unjustifiable costs The following observations are made:

Limited consideration is given in the import of fruit and vegetables and fisheries products to the safety of the source and the reputation of traders. Under the SPS Agreement's equivalence principle, Thailand should accept safety assurances from reputable suppliers in countries where control capacity is generally equal to or better than in Thailand, if they objectively demonstrate that they meet Thailand's appropriate level of protection. With further application of risk-based management, there should be further differentiation in inspection and most likely lower costs.

Informal payment requirements violate several principles of the SPS Agreement.

Premises of fruit and vegetable exporters are registered and inspected by FDA, and are also inspected by MOAC SPS agencies in charge of SPS export services. Although the inspections are generally not demanding, the overlap causes some cost to private traders that might form an unjustifiable cost of SPS measures and might be avoided by improved cooperation among SPS agencies.

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[14] A recent audit carried out by the Food and Veterinary Office of the EU confirms that the Thai fisheries sector is capable of assuring required safety standards for import into the EU. EU Food and Veterinary Office. 2011. "Final report of an audit carried out in Thailand from 05 to 15 September 2011 in order to evaluate the food safety control systems in place governing the production of fisheries products and live bivalve molluscs intended for export to the European Union." DG (SANCO) 2011-8897.

[15] Importers only get a testing report in (rare) cases of non-compliance; no record is provided in other cases.

The requirement of export permits to the EU and Japan for 16 fruit and vegetable products is costly and trade disruptive and, since it is not imposed by the importing countries, it needs justification. A risk-based system of requirements that takes into consideration existing hazard prevention systems and the performance record of exporters could provide an adequate alternative that is less costly to exporters with good systems in place.

V. Points for consideration

Based on the findings of this research, the Royal Thai Government is recommended to take into consideration: (i) SPS institutional improvements; (ii) further adoption of risk-based management; and (iii) capacity building to strengthen the performance of the SPS system.

Institutional improvements

1. Further reduce uncertainty for traders by ensuring that the same standards are applied on each border post and by each officer. The present variations in handling by Customs and SPS officers suggest that oversight deserves strengthening.
2. Reduce possibilities for rent seeking through further adoption of automation and integration of SPS handling within the NSW.
3. Improve coordination between FDA and SPS authorities under MOAC, in particular with respect to avoiding double inspection of food establishments for export.
4. Seek bilateral agreements with relevant authorities in neighboring countries to enhance control of bilateral trade and goods in transit. This can include harmonization, mutual recognition agreements (MRA) and standard operating procedures (SOP). Reducing formal costs of border release processes and rent seeking opportunities will be necessary to reduce incentives for informal trade and smuggling.

Risk-based SPS management

There are options for reducing transaction costs for private traders by improving the application of risk-based management and accepting equivalence in:

1. import of fresh fruit and vegetables
2. import of shrimp
3. export of fruit and vegetables to the EU and Japan

An additional option for imports is to accept equivalence of controls carried out in the country of origin.

Priorities for SPS capacity building in the context of trade facilitation

1. Further development of automation of SPS release processes and their integration in the NSW.
2. Further improvement of the scientific and analytical infrastructure to support the implementation of SPS measures.
3. Further strengthen private sector capacities for hazard prevention and transfer additional responsibilities to the private sector.