Assessment of Cross-Border Trade Costs Associated with SPS/TBT Requirements for Fish and Milk along the Kenya-Uganda Border

TABLE OF CONTENTS

LIST OF TABLES

ACRONYMS

AU	African Union
COMESA	Common Market for Eastern and Southern Africa
CABI	Center for Agriculture and Biosciences International
CODEX	Codex Alimentarius Commission
DDA	Dairy Development Authority
DFR	Department of Fisheries Resources
DTA	Dairy Traders Association
DVS	Directorate of Veterinary Services
EAC	East African Community
FAO	Food Agriculture Organization
FKDF	Federation of Kenya Dairy Farmers
GI	Group Interviews
GMP	Good Manufacturing Processes
IBAR	Inter African Bureau of Animal Resources
IPPC	International Plant Protection Convention
IPSAC	Inter African Phytosanitary Council
IVHC	International Veterinary Health Certificate
JBC	Joint Border Committees
KDB	Kenya Dairy Board
KDPA	Kenya Dairy Processors Association
KEBS	Kenya National Bureau of Standards
KII	Key Informant Interviews
MAAIF	Ministry of Agriculture, Animal, Industry and Fisheries
OIE	World Organisation for Animal Health
OSBP	One Stop Border Post
REC	Regional Economic Community
SPS	Sanitary and Phytosanitary
STDF	Standards and Trade Development Facility
STR	Simplified Trade Regime
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
UNBS	Uganda National Bureau of Standards
WTO	World Trade Organization

Executive Summary

Background

Today's global trade landscape is dynamic with higher levels of competition and consumers demanding safer food. Across continents, climate change is enhancing the challenge posed by pests and diseases that threaten animal and plant health, putting agricultural production and the environment at risk. Governments are also raising the bar on requirements for food safety and agricultural imports. For producers, processors, traders and other actors along agricultural value chains, meeting international food safety, animal and plant health standards clears the path to the global marketplace. This is why currently technical measures play a determining role as to whether trade takes place or not. Implementation of technical measures are provided for in the WTO Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Agreements, as well as in Regional Economic Communities (RECs) and Tripartite Agreements. Technical measures include procedures and standards formulated to manage the risk to animal, plant and human health, and to ensure that products, processes and production methods support public policy goals relating to quality and safety. Thus, they keep on receiving increased attention within the framework of international trade so as to address the issues of safety before any meaningful trade can take place. Technical measures are expected to apply to domestically produced food or local animal and plant diseases, as well as to products coming from other countries in a non-discriminatory manner.

Complying with standards and technical measures attracts a cost to all agricultural value chain actors including traders. To minimize the impact of standards and technical measures to trade, the WTO agreements require that the standards/measures are transparent, non-discriminatory, and cause the least disruption to trade while at the same time enabling the country achieve its objectives in applying them. Finding ways to reduce the negative impact on trade in the application of technical and other non-tariff measures has therefore become an important part of trade facilitation, which is emphasized by the WTO's Trade Facilitation Agreement (TFA) that came into force in February 2017. While stating that nothing in the agreement diminishes the rights and obligations of countries under the WTO TBT and SPS Agreements, the TFA provides added impetus in the quest for finding ways to reduce the cost of technical measures without reducing the level of protection they provide. It is in this context that the work reported here was undertaken.

This report presents results of an assessment conducted to enhance the understanding of the costs associated with application of SPS and TBT requirements along the Kenya-Uganda border at Busia and Malaba cross border points. The assessment focused on milk and milk products as well as and fish and fish products traded between Kenya and Uganda. The work was undertaken as part of the "breaking barriers facilitating trade" project that seeks to reduce trading costs associated with SPS/TBT measures in selected trading routes in the COMESA region. The basis of this work was that intra-regional trade can provide the required impetus for sustainable economic growth. Thus in

seeking to foster regional integration and increased intra-regional trade, it was imperative to get a deeper understanding of how the public policy goals of technical measures can be achieved with minimum trade restriction. This study is a contribution to the understanding the impact of SPS/TBT measures on trade with the ultimate goal being to identify SPS/TBT intervention areas that will not only reduce the SPS/TBT related transactions costs but also improve on the indicators on trade facilitation in general.

Methodology

The methodology used to seek information on trade related aspects involved the administration of a questionnaire. The questionnaire was developed through interviews with relevant stakeholders including traders (of the specific commodities in the study), transporters, clearing agents and border point regulatory officers. The questionnaire consisted of a Template and Guidelines for assessing SPS procedure/processes behind the border and at the border, and the related trading costs. Information was gathered covered procedures at the border which include temporary storage (where necessary), charges resulting from border delays where necessary, duplication of procedures, costs associated with SPS certification and rejection of consignments. The questionnaire was administered on selected individual stakeholders and aimed to determine the actual SPS related costs incurred by the trader from when the product was ready to export the specific commodity, its conveyance to the border and when clearing goods at the border. Key informant (persons familiar with the clearing and forwarding activities) interviews were also used and allowed consultants to capture the views and expectations of the stakeholders regarding the SPS related cross-border trade costs.

Key Findings and Conclusions

- Several government departments, authorities, agencies and boards were involved in TBT/SPS regulations at borders. Their roles focussed on inspections, assessments and tests to ascertain conformity with the standards set as per SPS/TBT requirements. Kenya and Uganda do not have mutual recognition agreements and therefore do not recognize SPS related inspections of counterpart agencies. The operationalization of one-stop-border post provides an excellent opportunity to reduce duplication of inspections by the agencies on either side of the border. To a large extent, certification requirements and procedures are harmonized between the countries.

- The inspections as currently undertaken suggests that the processes at the border are relatively simple, since most of the technical requirements are implemented at the production, packaging and pre-transportation facilities. There are EAC harmonized SPS standards for milk (for milk quality marks are accepted) and fish products, however their implementation has not been fully cascaded to the border operations. In most cases only an "organoleptic" test was done - a quick visual inspection to confirm that the product has a normal appearance and smell. Sampling was also done as part of monitoring for compliance with set standards and other requirements by the

specific agencies at the borders. In addition, because of absence of mutual recognition agreements between Kenya and Uganda, inspections, tests and other forms of verifications were done on both sides of the borders. One would therefore conclude that the inspections and sampling were not based on risk. Sampling. Both countries do not charge for border inspections, sampling and testing.

- The cost of obtaining SPS/TBT certification for both milk and fish are minimal except for the import permit by regulators, and the available data indicate that these costs are largely harmonized between Kenya and Uganda. However, import permits costs for fish charged by the fisheries authorities in Kenya and Uganda are disproportionately high (5% of the consignment value). This could be a contributory factor on why most small-scale traders opt to look for alternative routes or use other means to move the goods to the importing country including by water on the lake, hence the thriving informal trade.

- The average time during inspections associated with document checks ranged between 8 minutes and 1 hour depending either on waiting for staff of the regulatory agency to perform document checks or involvement of multiple agencies for document checks. There were no charges for document verification. At the Busia and Malaba border posts between Kenya and Uganda, the SPS/TBT documents are checked by Customs and verified by the SPS/TBT regulatory authorities. While this may not cause substantial delay, it does indicate that improvements are still possible. Although the border posts operate 24 hours, some TBT/SPS agencies do not operate on a 24-hour basis because of inadequate staffing as one of the major reasons cited. Improved interagency collaboration, as well as cross-border collaboration, could contribute to improving this situation even without deployment of additional staff.

- Time taken to obtain SPS/TBT certification was varied for different SPS/TBT certification. There are a several aspects to the process of obtaining certificates, which all contribute to the time taken and therefore cost to the trader. This includes whether documents are manually or electronically processed with the latter being faster; centralized certification offices; waiting time at the regulator's office for service; duplication of inspections due to lack of formal or institutionalized collaboration between agencies either within or across the border; and, absence of systematic rules for determining inspection or sampling frequency, although several agencies reported using international standards.

- Traders were generally not conversant with the export/ import trade requirements. In particular, information on SPS/TBT certification and other requirements at the border was not readily accessible to the traders. They relied on agents and were at risk of potential exploitation. Furthermore, this information was found not to be readily accessible online on websites of regulatory authorities or trade information desks at the border. As a result, many traders opted to engage the agents who were considered "informed" and able to engage through the procedures at a relatively faster rate. On the other hand, the existence of a Trade Information Desk at the border

was not known to many traders and therefore its potential as source of information on SPS/TBT requirements especially to small scale traders has not been fully realized. The joint border committees (JBC) which should have filled this void were also found not to be effective.

- While this study did not encounter any major SPS related rejection costs, it is expected that cases of rejection may rise when the two borders enhance their inspections. The enhancement of inspection may also come with additional remedial SPS interventions on the consignments before they are allowed to cross over to the country of destination.

Recommendations

In light of foregoing, it is recommended as follows:

- There is need to harmonize the operations of regulatory authorities operating along the borders to facilitate trade in line with simplified trade regime (STR). Inspection, sampling and testing can be undertaken by one agency, or jointly by the two countries, rather than each country undertaking its own processes through multiple agencies as envisaged in the One Stop Border Post (OSBP) implementation.

- Certification processes should be automated. This calls for more investment in IT infrastructure and training of traders, agents and other stakeholders on the use of available electronic platforms. Where several regulatory authorities are involved in issuance of SPS/TBT certificates, licenses and permits, they should be electronically linked with appropriate alert systems to facilitate online document approval.

- To enhance information access among traders and other stakeholders, information on SPS/TBT certification requirements and fees plus the anchoring legislations should be provided on an easily accessible platform to traders, especially the small-scale ones. The information should be available on the regulators' websites and should be updated regularly. Utilization of automated SPS certification and clearance systems has the potential of reducing waiting time and eliminating duplicative documentation requirements. Such automations should be well marketed to the traders through sensitization and provision of relevant information. Incentives such as fee waivers may be explored to attract more use of the electronic system.

- Harmonized risk-based sampling protocols should be developed and stakeholders sensitized about them. All inspectors from regulatory authorities should be trained on the developed harmonized risk-based sampling protocol. Fundamental information in the sampling protocol

should be made available at border points should be made accessible to the trader as a way of ensuring transparency in the process. It will also enable the trader to take into consideration the sample requirements when packing the consignment so that the quantity to be delivered to the importer is not compromised. Joint sampling and testing (using one sample and one designated laboratory) to be discussed as a possible solution.

- The SPS/TBT certification offices should be decentralized to the borders and fully operationalized. This should go hand in hand with the development of the e-certification process.

- To prevent delays associated with overnight stay at the border, the staff capacity under the SPS Regulatory Authorities should be strengthened or modalities put in place to facilitate over-night shifts in a 24 hours operational system.

1. Introduction

1.1 Global Context of SPS – WTO SPS Agreement

The World Trade Organization (WTO) agreement on SPS was adopted in 1994, in Uruguay and entered into force in January 1995. The agreement defines SPS measures as all types of measures aimed at the protection of human, animal and plant life or health from a defined range of risks related to trade, and that any deviation towards stricter national standards must be justified by a risk assessment. According to the SPS Agreement, SPS measures should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail. Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. They can also set higher standards based on appropriate assessment of risks so long as the approach is consistent, not arbitrary.

Sanitary and phytosanitary measures can take many forms, such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting of allowable maximum levels of pesticide residues or permitted use of only certain additives in food. With regards to the protection of human life, SPS measures can be applied in order to reduce risk related to toxic contaminants (e.g., pesticides and drug residues), food additives, disease-causing organisms in food and beverages and diseases carried by animals, plants or products. For animal and plant life, SPS measures can, in addition to the risk reducing factors mentioned above, be applied to prevent the entry, establishment or spread of pests.

A number of principle provisions make up the core of the WTO SPS Agreement (Box 1). First, member states are free to choose the level of protection they deem necessary and to establish measures to implement the targeted protection level. Harmonization requires SPS measures to be based on standards, guidelines and recommendations developed by the World Organization for Animal Health (OIE), the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission (CAC). Any stricter protection must be justified by a scientific risk assessment. Further, equivalence is recommended in the acceptance of different measures that achieve similar protection levels. In simple terms, if one country uses a certain method to achieve a certain result and another country uses a different method to achieve the same result, the two methods can be considered equivalent. The exporting country must demonstrate equivalency of measures to the importing country and the importing country should accept the result. Bilateral and multilateral agreements (so called 'equivalence agreements' or in case of mutual Acceptance 'mutual recognition agreements') provide the institutional framework for implementation of equivalence. Such agreements establish a

basis for the exchange of information on standards, recognition of certification, provisions for retests and appeal, and the return of rejected consignments. Provisional protection measures may be implemented if scientific evidence is insufficient to provide a reliable risk assessment[1].

Issues of SPS have continued to affect trade negatively, as some countries do not adhere to them while others have set their standards too high just to bar others from exporting to them. This is why for as long as EAC member states are at different levels in the application of their SPS measures in the three SPS areas of food safety, plant protection and animal health, both in regional and international trade there will continue to be trade challenges.

Box 1: Essential Provisions in the WTO SPS Agreement

There are essential provisions in the Agreement which places restrictions on the measures that can be applied and thereby reduce the probability that measures are unjustifiably used.

- Measures must have a *scientific justification*. This can be achieved by *harmonizing* sanitary or phytosanitary measures with internationally agreed standards, guidelines or recommendations from the Codex Alimentarius Commission (CODEX), the International Office of Epizootics (OIE), and the International Plant Protection Convention (IPPC). The standards applied by these institutions must be deemed necessary to protect human, animal or plant life or health. Member countries can, however, impose regulations different from standard setting institutions as long as these regulations are based on scientific evidence (risk assessments), and are not inconsistent with any other provision of the SPS Agreement.
- Non-discrimination. An importing country cannot impose different requirements on imports than on domestically produced goods (national treatment), nor can it favour imports from certain countries (most favoured nation).
- Equivalence. Members must accept other ways of ensuring equal safety insofar as the exporting member objectively demonstrates that its measures achieve the importing member's required level of sanitary or phytosanitary protection.
- Transparency. Members are to publish all SPS regulations and notify proposed changes in their sanitary or phytosanitary measures if they have a significant effect on trade. All members should also establish an Enquiry Point to respond to all reasonable questions.

Increased information about the SPS Agreement is therefore only a starting point for developing countries that want to increase their exports of agricultural products. More important is the need for information about the regulations in the relevant importing countries in question, including risk assessments and implementation of standards. The agreement affirms the rights of WTO members to restrict international trade when necessary to protect human, animal or plant life or health. At the same time, it aims to ensure that unnecessary health and safety regulations are not used as an excuse for protecting domestic producers from trade competition. The main principles of the WTO framework are that SPS measures should be non-discriminatory, transparent,

[1] WTO Agreements Series 4 SPS Measures, 1998, 2000, article 5.7).

science-based and not more trade-restrictive than required to achieve the appropriate level of protection.

In November 2014 the WTO concluded a Trade Facilitation Agreement (TFA) that entered into force on 22 February 2017 after two thirds of Member Countries ratified it domestically. The agreement states that "*nothing in this Agreement shall be construed as diminishing the rights and obligations of Members under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures*". However, it is clear that some of the obligations it contains apply to the application of SPS measures. For example, Article 1 requires publication (in some cases on the internet) of a range of information on fees, forms and procedures. While this is in line with the transparency provisions of the SPS Agreement, it extends and provides more detail on the obligations that SPS agencies (amongst others) will be required to meet.

Box 2: Definition of an SPS Measure (WTO SPS Agreement)

Any measure applied:

(a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

(b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

(c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests;

(d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

SPS measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end-product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments, including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

In line with the WTO's SPS Agreement, this study focuses on the implementation of SPS measures (Box 2 above) in the context of the following elements:

Effective, risk-based measures. For SPS measures to be effective, they should be based on risk, and provide an appropriate level of protection. If they do not do so, then they are unjustified, and represent an unnecessary trade restriction.

Harmonised measures. Harmonized approaches – such as through the use of common standards – help reduce the costs of implementing SPS measures. These may be international standards, such as those produced by the IPPC, OIE and Codex Alimentarius Commission (as referenced in the WTO SPS Agreement), or regional standards.

Efficient implementation to facilitate trade. The way in which measures are implemented affects their cost and can in itself restrict trade. The specific objective thus reflects the SPS and TFA, which aim to minimise the restrictiveness of justifiable measures, while allowing countries to achieve the level of protection they deem appropriate.

Regional and international trade. Increasing regional trade is critical to economic development of the region, while international agricultural exports already provide much income. SPS measures apply to both.

1.2 Continental Context of SPS Measures

The African Union has a number of specialised technical agencies, two of which deal with SPS issues, the Inter-African Bureau of Animal Resources (AU-IBAR) and the Inter-African Phytosanitary Council (AU-IAPSC). These organisations deal with animal health and plant health respectively, although their mandates also cover aspects of food safety which at international level are dealt with by the Codex Alimentarius Commission.

The AU-IBAR Strategic Plan (2014-2017) has 4 thematic areas:

- Animal health, disease prevention and control systems
- Animal resource production systems and ecosystem management
- Access to inputs, services and markets for animals and animal products
- Animal resources information and knowledge management

Reflecting the broad mandate of the organisation, and wider scope of the new strategy, SPS issues now fall mainly under the first area. The strategy identifies RECs and their Member States as its key clients.

The AU-IASPC Strategic Plan (2014-2023) also addresses four areas:

- *Phytosanitary accordance:* to facilitate market access but also to prevent the incursion of exotic plant pests into the continent
- *Plant pest risk reduction:* early detection, response and management of plant pest risks, including sharing of information
- *Human capacity development:* ensuring an adequate supply of trained plant protection personnel at all levels

- *Awareness creation*: to ensure plant protection issues are put on national, regional and continental agendas

The plan recognises the importance of RECs and other partners in achieving impact. There is currently no single AU agency addressing food safety issues. Some aspects fall within the mandates of IAPSC and IBAR, but there is ongoing discussion about the possibility of establishing an African food safety authority.

1.3 Regional Context of SPS Measures

The regional economic communities recognize the need for having frameworks for SPS implementation. Article 132 of the COMESA treaty concerns co-operation in the export of agricultural commodities, and member states agree to "harmonise their policies and regulations relating to sanitary and phytosanitary (SPS) measures without impeding the export of crops, plants, seeds, livestock, livestock products, fish and fish-products". In 2007 the 23rd Council of Ministers established the SPS Subcommittee under the Technical Committee on Agriculture, for effective coordination of SPS matters at regional level, and the 29th Council of Ministers requested the Secretariat to set up and make functional an SPS unit at the Secretariat. Subsequently, the Council of Ministers directed the Secretariat to enhance programmes aimed at mutual recognition of standards and SPS measures, as well as to expedite the harmonization process as stipulated in the COMESA SPS regulations.

The COMESA SPS regulations reference the WTO Agreement on the Application of SPS measures (Box 2) which established the WTO SPS Committee. COMESA has observer status on the WTO SPS Committee, where updates can be given on SPS challenges and activities in the COMESA region. COMESA recognizes that most of its Member States have undertaken international commitments and obligations under WTO's SPS Agreement, as well as under other international and regional agreements.

In December 2009 the COMESA Council of Ministers adopted "Regulations on the Application of Sanitary and Phytosanitary Measures". The regulations were developed in line with the COMESA agreement which includes undertakings by Member States to "…abolish all non-tariff barriers to trade among themselves" (Article 4, paragraph 1 (a)), and to "simplify and harmonise their trade documents and procedures" (Article 4, paragraph 1 (e)), in addition to Article 132 on SPS measures.

The COMESA Council of Ministers has urged the Secretariat to support Member States to domesticate the regulations and has directed the secretariat to enhance programmes aimed at mutual recognition of standards and SPS measures, and to expedite the harmonisation process.

Under the COMESA treaty regulations are mandatory and binding. However, an STDF-commissioned study of Regional Sanitary and Phytosanitary Frameworks and Strategies in Africa (Magalhães, 2010) suggested that some aspects of COMESA's SPS regulations might be in contradiction with obligations under the WTO SPS Agreement. For example, Article 6(1) states that "Member States shall comply with Articles 3 to 8 of the WTO SPS agreement, except as otherwise provided for in these Regulations", suggesting that under some circumstances Member States might not comply with the SPS Agreement. The regulations also provide for the establishment of a certification scheme known as the Green Pass. A study by the FAO legal department indicates that the Green Pass scheme could be at odds with contracting parties' obligations under the IPPC, even though the objective of the scheme is to facilitate safe trade in line with the WTO SPS Agreement.

Similarly, the importance of SPS has been articulated in several EAC documents. Article 108 of the EAC Treaty, Article 38 of the Customs Union Protocol requires Partner States to co-operate in several areas including SPS measures in accordance with international best practice. Article 45(3) of the EAC Common Market Protocol calls for an effective regime of SPS measures, standards and technical regulations in the region. It further requires Partner States under Article 5(2) to harmonize SPS procedure.

Pursuant of the above instruments, the EAC has established the EAC SPS Protocol. The Protocol provides an implementation framework for the WTO SPS Agreement and the EAC Treaty provisions on SPS. The objective of the EAC SPS Protocol is to: promote trade in food and agricultural commodities within the EAC and between EAC and other trading partners; implement the principles of harmonization, equivalence, regionalization, transparency and risk assessment; and strengthen the application of a common and improved standard for implementation of SPS measures and activities.

Article 22 of the agreement establishing a Tripartite Free Trade Area (TFTA) among COMESA, SADC and EAC have the provisions on SPS as follows:

1) Tripartite Member/Partner States reaffirm their rights and obligations in respect of the WTO Agreement on the application of Sanitary and Phytosanitary measures;
2) Tripartite Member/Partner States shall undertake to facilitate safe trade in animals and animal products, plants and plant products whilst safeguarding human, animal and plant life or health;
3) Tripartite Member/Partner States shall cooperate to eliminate unjustifiable SPS measures in order to facilitate safe trade in sectors of mutual economic interest;

4) Tripartite Member/Partner States shall establish and implement a capacity building programme to support the implementation of Sanitary and Phytosanitary Measures; and,
5) The implementation of this Article shall be in accordance with Sanitary and Phytosanitary Measures.

In general, the EAC SPS Protocol is largely modelled along the WTO SPS Agreement, while the TFTA safeguards members' rights as enshrined in the WTO SPS Agreement. The SPS Protocol contains several other provisions which more or less replicate the SPS Agreement provisions or contain some of their elements. While regional harmonization efforts are seen to be moving forward with country level buy-in, national level efforts to incorporate harmonized standards in domestic legislation and regulation are seen to be slow paced.

1.4. The Need for Technical Measures

Participation in any form of cross border trade, regional or international trade, is not possible without first addressing issues of safety of merchandise to be traded. This is why technical measures play a determining role as to whether trade takes place or not. Application of technical measures is provided for in the WTO SPS Agreement and the Technical Barriers to Trade (TBT) agreement, as well as in RECs and Tripartite Agreements. They include procedures and standards to manage the risk to animal, plant and human health, and to ensure that products, processes and production methods support public policy goals relating to quality and safety. The TBT Agreement covers all technical regulations, voluntary standards and the procedures to ensure that these are met, except when these are sanitary or phytosanitary measures as defined by the SPS Agreement. Thus, the technical measures constantly receive increased attention within the framework of international trade so as to address the issues of safety before any meaningful trade can take place. Technical measures apply to domestically produced food or local animal and plant diseases, as well as to products coming from other countries.

Technical measures are therefore important for maintaining appropriate quality standards, preventing the regional spread of pests and diseases, and protecting the public against toxins that can develop in storage as well as from zoonotic diseases. Regional food safety standards while taking into account the provisions in international standards must take into account the associated risks. These measures however can become non-tariff barriers if they are not applied fairly or if the regulatory agencies are not appropriately equipped (infrastructure personnel and procedures) to enforce them. Compliance with SPS standards and technical measures therefore constitutes a basic requirement for any exporter seeking increased market access for agricultural products in the regional and international trading system. However, assuring compliance comes at a cost to all agricultural value chain actors.

1.5 Technical Measures as they affect Regional Trade

Several exports from eastern and southern Africa countries often suffer rejections within the region and in external markets, due to non-compliance with importing country SPS and other technical measures. Failure to comply with plant health, animal health, food safety and quality systems requirements often has devastating impacts on a country whose products have been rejected or restricted. These rejections/import restrictions cost millions of dollars in lost income for the exporters and the country at large.

In eastern and southern Africa, food safety standards have become increasingly important but there are several challenges related to their application especially in inspection and testing. The procedures in assuring compliance with SPS requirements and the technical measures in the region are not harmonized, neither are they adequately communicated to the stakeholders. This is further compounded by lack of mutual recognition of standards and non-application of the equivalence provision among the countries in the region which often acts as a barrier to trade.

In the absence of mutual recognition in COMESA, countries do not recognize or accept certificates of counterpart agencies in other COMESA countries. Instead fresh inspections and tests are instituted at the borders, sometimes leading to delays. Another dimension is that quite often, regulatory authorities as per the legal provisions charge a fee for official certifications and food inspections at the borders ('for the stamp'). In effect the administration of the SPS measures comes with costs (both in monetary terms and time) that are not well understood.

This is why the Common market for Eastern and Southern Africa (COMESA) with the funding from the Standards and Trade Development Facility (STDF) commissioned a pilot project "Breaking Barriers, Facilitating Trade" aimed at determining costs associated with compliance with SPS measures in eastern and southern Africa.

1.6 COMESA's Breaking Barriers, Facilitating Trade Project

COMESA, with the financial support from Standards and Trade Development Facility (STDF) commissioned a pilot project entitled Breaking Barriers, Facilitating Trade. The objective of the project is to reduce trading costs associated with SPS measures for select commodities on select trade routes in seven countries, namely Egypt, Kenya, Malawi, Sudan, Uganda, Zambia and Zimbabwe. The project is expected to improve the understanding of the trading costs related to implementation of sanitary and phytosanitary (SPS) measures in eastern and southern Africa.

Intra-regional trade in COMESA currently stands at only 10% of the total trade, implying that COMESA countries are still trading much more with other countries than with their neighbours with whom they have a free trade agreement. Studies show that the cost of doing business in the COMESA countries is among the highest in the world, particularly when it comes to the cost of cross-border trade. One of the key contributors are the costs related to compliance with SPS/TBT measures.

A pilot study on trade costs related to the administration of the SPS measures was undertaken along the Kenya-Uganda border at Busia and Malaba cross-border points with a focus on milk and fish products. The outcome of the survey should inform on the appropriate measures needed to reduce costs related to the implementation of the SPS measures across borders in the region as well as facilitate the intra-regional and international trade.

Malaba border is located on the main Nairobi-Kampala highway, approximately 438 kilometres northwest of Nairobi, and approximately 215 kilometres east of Kampala. The Busia Border, is situated West of Kenya and East of Uganda, approximately 431 kilometres by road from Nairobi and 202 kilometres from Kampala, the capital city of Uganda. Both Busia and Malaba are major trading centres between the two countries and account for the bulk of both trade and human traffic between the two East African countries.

1.7 Objectives of the Study

The purpose of the study was to assess the SPS related cross-border trade costs at Busia and Malaba borders for milk and milk products and fish and fish products traded between Kenya and Uganda. The pilot baseline study will serve as a bench mark from which to gauge required changes in trading costs as a result of any interventions in future. The specific objectives were to:

1. Identify and quantify the SPS compliance costs of milk and fish commodities traded between Kenya and Uganda at Busia and Malaba borders; and,
2. Make recommendations on the interventions needed to reduce SPS related cross-border trade costs in the region.

2. **Methodology**

2.1 Data collection tools

The work on the baseline assessment started with the development of data collection tools and guidelines titled ***'Template and Guidelines for assessing Sanitary and Phytosanitary documentation and procedure related trading costs at and behind borders', see annex 1.*** Initially a generic template / questionnaire was developed for the purpose of facilitating collection of data on trading costs related to implementation of SPS measures at selected border crossings for selected commodities , and it had four tools. The tool was pretested at Malaba border prior to data collection following which it was collapsed into two tools: Tools (101) to be administered at the borders, targeting sampled consignments as the unit of study, and another (Tool 102) to be administered to the traders. Project stakeholders including COMESA, CABI, traders and, regulators gave their inputs during the tools' development process.

Tool 101: Border point assessment checklist
Mixed methods of data collection were required to gather information for populating this template. Data was gathered through direct observation and through interviews with regulators, transporters, clearing agents and traders. Information captured using the tool included:

- Cost of SPS procedures
- Costs of temporary storage
- Costs associated with other charges resulting from border delays
- Costs due to duplication
- Costs of rejection

Tool 102: Trader
This tool focused on data collection through interviews with traders. A few traders were interviewed at the boarder point and a number of the traders at their offices. Information captured using the tool included:

- SPS related staff costs
- Costs incurred to obtain certificates and permits
- Costs of SPS related inspection/ tests commissioned by the trader to ensure compliance
- Costs of mandatory laboratory procedures/ inspections by regulatory authorities
- Costs of rejection

- Informal costs

2.2 Review of Secondary Information

The review of existing data and information offered the study team several potential benefits, such as identification of potential informants for interviews, further clarification, and summarizing what was known and what was to be corroborated during interviews with the stakeholders. Comprehensive literature review was conducted to ascertain the current situation of SPS related cross-border trade costs and to appreciate the political economy issues along the border.

2.3 Identification of Stakeholders for Interviews

2.3.1 Fish stakeholders

The fish stakeholders were purposively identified based on the data at the border posts. A total of 40 fish consignments were drawn from 4 companies as shown below. The bulk of the sampled fish consignments (97.5%) went through Malaba border post.

▪ Sosow Fish Farm	47.5% (19/40)
▪ Malaba Fresh Fish Association	32.5% (13/40)
▪ Lake Harvest	15.0% (6/40)
▪ Busia Multipurpose Fresh Fish Traders	5.0% (2/40)

Almost the entire sample of the fish consignments (97.5%) were exports from Uganda to Kenya, with only one consignment (2.5%) destined to Uganda, from Kenya. A total of 38 consignments (95.0%) comprised of fresh fish while the remaining consignments were of dry salted fish and smoked dry fish respectively. Both male (67.7%) and female (32.3%) fish traders were involved. Data collection on fish consignments lasted 21 minutes on average, per consignment, with a minimum of 8 minutes, maximum of 41 minutes and a standard deviation of 0.018.

2.3.2 Milk Stakeholders

The milk stakeholders were purposively identified based on the data at the border posts with the bulk (47.9%) of the sampled consignments being traded by Brookside Ltd and 23.9 % by Epitome Enterprises. The other consignments were sampled from Afrifresh, Pearl Dairy, Glacier, Midcom and Rainbow Industries.

A total of 61 consignments, representing 85.9% of all milk consignments were sampled at Busia border post. The other 14.1% of the sample was drawn from Malaba border. The consignments included 3 different milk products: UHT milk (73.2%); Milk powder (12.7%); and Ice cream (14.1%). Only 14.1% of the milk consignments were exports from Kenya to Uganda while the remaining 85.9% were exports from Uganda to Kenya. Majority (94.3%) of the consignments were traded by males, and 5.7% by female traders. Data collection on each milk consignment lasted an average of 58.8 minutes. The longer time taken for data collection on milk consignments could be attributed to the fact that the consignments came in large trucks and took longer to be cleared.

2.4 Enumerator Training

Enumerators were trained by the consultants on the tool for data collection. Trainees gave feedback which was used to revise the tool and thereafter a text run was conducted with a few traders before it was finalized for actual data collection. A total of fourteen (14) enumerators were involved from each country, making a total of 28.

2.5 Analysis and Synthesis

The first step in data analysis was data cleaning to ensure accuracy and reliability of the data. The data was analysed and presented in a descriptive way using tables and graphs. The analysed data and information collected from interviews were used in the discussion of findings. The evidence was shared, peer-reviewed, and discussed through consultations with CABI and COMESA.

2.6 Study Team Composition and Roles

- **Consultants:** They were responsible for training of field team on data collection. They monitored the administration of the data collection and addressed challenges encountered in the field during data collection using the survey instrument and were also responsible for data cleaning.
- **National Project Coordinators:** These were appointed by their respective Governments to coordinate the project "Breaking Barriers Facilitating Trade" and were senior officials in national regulatory authorities. The coordinators were responsible for identifying and recruiting enumerators for the data collection exercise ensuring they met the requirements specified by the consultants. Together with consultants, they were responsible for the day to day management of the survey activities.
- **Enumerators** – were responsible for data collection and administering the study tools. 14 enumerators were engaged from Kenya and likewise from Uganda. They were responsible in identifying mobilizers who assisted with the day to day mobilization of respondents for the interviews.

- **Mobilizers**- The mobilizers were recruited to notify the sampled respondents about the study and seek their consent for participation. They were responsible for booking appointments with the traders, transporters and clearing agents.

2.7 Study Limitations

(a) The methodology used focused on formal trade since this is where the costs of technical measures are incurred. This was viewed by some as a disadvantage because a large volume of informal trade occurs, reportedly in part due to the SPS, TBT and other costs of formal trade. However, this methodology was used in tandem with the stakeholder interview approach, to ascertain for the particular commodity and border the extent to which informal traders' perceptions matched the observed costs of formal trade.

A lot of fish traded between the two countries is through informal channels. The informal trade flows are important not only for their economic significance but also because they reflect the *de facto* economy of most African countries. The main reasons for it seem to be the complicated approval procedures, poor management of transport and logistics infrastructure and border controls that make official trading practically impossible, particularly in the case of small consignments of goods. Statutory regulations and standards do not apply here. To the SPS national authorities in the region, this form of trade is illegal, yet it contributes to the region's food security and the general socio-economic development. Trade license for export fish in Uganda is only provided for consignments of 200 Kg and above. Fish rejected at the Busia border would, for example, find its way to the Kenyan market through Malaba border, mainly in batches of 10-30 Kg transported using bicycles, through the porous border informally.

(b) Unavailability of some data sought – for example, none of the commodities required remedial interventions at the border point, making it difficult to measure or collect remedial intervention costs.

(c) The flow of consignments from Kenya to Uganda, both for fish and for milk, was not adequate to support disaggregated analysis. As a result, the analysis did not provide disaggregated data for individual countries.

3 Findings of the Study

3.1 Critical SPS Parameters Monitored along the Commodity Value Chain

Specific SPS parameters were monitored along the value chain of the fish and milk products from production to final sale to the consumers. While verification of the parameters was mainly undertaken at the border, a number of assessments were performed behind the borders by the competent authorities to establish sanitary conditions under which the commodities were produced, transported, processed and stored. The critical parameters assessed included the following:

- Microbiological criteria of the final product
- Hygienic practices during production and processing
- Certification requirements
- Limits for residues of or contamination by non-microbiological substances
- Restricted use of certain substances in the commodities and their contact materials
- Testing requirements
- Packaging and labelling requirements
- Storage and transport conditions

3.2. Competent Authorities and Other Institutions involved in Dairy and Fish Products Regulation in Kenya and Uganda

A wide range of government departments, authorities, agencies and boards are involved in SPS regulation, including the bureaus of standards, drugs authorities, and Ministries of Agriculture, Livestock, and Fisheries. The roles of these institutions mainly focused on inspections, assessments and tests to ascertain conformities with the standards set on SPS requirements.

3.2.1 Institutions Responsible for Dairy Products Regulation

In Uganda, the Dairy Development Authority (DDA) is a statutory body under the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) established with a mandate to develop and regulate the dairy industry in Uganda. The Authority registers and licenses milk coolers, milk collection centres, milk processors and traders, exporters and milk transportation tankers while the department of Animal Industry inspects premises, processes, and certifies milk and milk product imports and exports. Uganda Bureau of Standards (UNBS) in collaboration with MAAIF and DDA develops standards and enforces compliance. UNBS is also responsible for inspection and quality control of milk processing as well as issuance of Quality Certificates and permits.

In Kenya, while the Department of Veterinary Services (DVS) focuses on sanitary inspection, the Kenya Dairy Board (KDB) is a statutory organization mandated to regulate, develop and promote the Kenyan dairy industry. In this respect, the Board undertakes the following activities in the Kenyan dairy industry among others:

- Inspection and licensing of milk handling premises, processes and equipment
- Organization and support to stakeholders' groups e.g. Federation of Kenya Dairy Farmers (FKDF), Kenya Dairy Processors Association (KDPA) and Dairy Traders Association (DTA)
- Capacity building of stakeholders on milk quality, safety, standards, traceability and value addition
- Development and review of dairy standards – the Board chairs the Dairy Technical committee at the Kenya Bureau of Standards. In this respect, the Board has contributed to the review and harmonization of dairy standards in the EAC. A Kenyan dairy standard on Good Manufacturing Practices (GMP) has also been developed through this process.

3.2.2 Institutions Responsible for Fish and Fish Products Regulation

In Uganda, the Department of Fisheries Resources (DFR) of the Ministry of Agriculture, Animal Industry and Fisheries is responsible for inspection, certification and control of fish and fish products. SPS regulation in fish trade included inspection of premises, processing facilities, landing sites, fish and transportation trucks to determine adherence to safety and quality. The initial certification of fish begins at the landing sites where inspection is undertaken and local fish health certificates issued. For analysis the analysis of fish and fisheries products in Uganda, the following institutions are involved:

- Uganda National Bureau of Standards (UNBS)
- Uganda Fisheries Laboratory
- Chemiphar Laboratory (Chemistry and Microbiology)
- Government Analytical Laboratory (Chemistry)

In Kenya, the State Department of Fisheries is responsible for regulation of fish trade. Institutions responsible for quality assurance included the Kenya Bureau of Standards (KEBS). The State Department of Fisheries is the competent authority for issuance of certificates for export. The Department is developing a residue monitoring plan and setting measures in place for the approval of Kenya's export of farmed fish. The Department is also in the process of finalizing and publishing a manual on operating procedures for the sector, for implementation. The Department of Veterinary Services is also involved as it is responsible for the inspection of animals, animal products and animal farming inputs.

3.3 Requirements for Cross-Border Trade

Step 1: Register business

The business entity must be registered by the Registrar of Companies under the Attorney General's Chambers. It is a statutory requirement that every business operating in Kenya and Uganda is registered and/or fully incorporated. This registration is important for businesses and cross-border-related transactions as it demonstrates the credibility and legality of the entity.

Step 2: Prepare and obtain export documents

Documents and authorizations required for cross-border transactions include:

- Certificate of analysis
- Import permit
- International veterinary health certificate
- Inspection report
- Export license

Certificate of Analysis

Inspection of milk collection points and processing facilities is undertaken in both countries. In Uganda, the Uganda National Bureau of Standards (UNBS, is responsible for the issuance of Certificate of analysis while in Kenya, it is the responsibility of the Kenya Bureau of Standards (KEBS). The certificate of analysis is issued against benchmarks on the safety of dairy products including bacterial load and viral infestation. Inspection of milk collection points is undertaken by the Dairy Development Authority (DDA) in Uganda and by the Kenya Dairy Board (KDB) in Kenya. DDA registers and licenses all milk value chain actors except farmers. The regulatory agencies issue certificates on terms and conditions prescribed by the organization to processors and traders.

Import Permit:

Import permit sets import conditions for the product. The set conditions are based on the standards set by the International Organization for Animal Health (OIE).

The issuance of the import permit is either temporal based e.g. for a period of month or based on a specified number/ quantity of consignment. The validity of import permit is varied even within the boundaries of individual countries and may be fixed for a period of time or on a certain quantity of commodities depending on a number of factors.

International Veterinary Health Certificate (IVHC)

The certificate is processed upon a trader's request to the animal health officials after review of the import permit, inspection of the consignment and related certificate of analysis.

Inspection report

Routine inspection of milk processing facilities is a mandatory requirement for export facilities. The frequency of inspection is varied for different traders depending on individual processor's adherence to the set standards. Consistent adherence to the standards earned the processor a reduction in the frequency of inspections while non-compliant processing facilities were subjected to more frequent inspections.

Export license

The license is issued annually upon successful inspection of factories and transport vessels and after ascertainment of the quality and safety of the dairy product through their own analysis or based on UNBS or KEBS certificate of analysis.

3.3.1 Import Requirements Specific to Fish

Fish import requirements for the two countries include:

- Certificate of Incorporation/Registration for businesses
- Fish Movement Permit,
- Health Certificate
- Processing License
- Certificate of Compliance

3.3.2 Import Requirements Specific to Dairy Products

The dairy products import requirements set for importation into Kenya from Uganda by the Kenya Dairy Board include:

- Milk movement permit (issued by the Kenya Dairy Board);
- License to process milk (issued by the DDA);
- International veterinary health certificate (issued by the MAAIF);
- Standardization mark (issued by the UNBS);
- Food hygiene license (Ministry of Health);
- Biannual medical certificate (Ministry of Health);
- Inspection certificate (Ministry of Health).

The Diary Development Authority of Uganda has similar requirements for importation of Milk and milk products to Uganda from Kenya.

Samples are taken at the border as part of monitoring of compliance with standards. The samples are taken to appropriately equipped laboratories and the results communicated to the border officials for any needed follow-up actions. The frequency of such tests depended on the level of compliance and the traders that exhibited good compliance records were exempted from frequent tests.

3.4 Certification Process Flow in Dairy and Fish Trade

3.4.1 Certification Process Flow in Fish Trade

Fish products may be traded (import/export trade) between Kenya and Uganda under the conditions shown in Tables 3.1 and 3.2 and figure 3.1 below:

Table 3.1: Fish Export Requirements

Inspection/Verification Stage/Permit	**SPS/TBT Document Issue**
Production (Ponds)	Water quality assessments, Icing /Cold Chain inspection reports
Processing	• Export health certificate (issued at the processing facility) - shows organoleptic test results showing it is safe (health certificate not applicable to whole fish) • Charges: USD 10 for both Uganda and Kenya; charged per consignment;
Transportation	• Inspection report for the transport vessel • Transport certificate – has same information contained in the inspection report
In-country movement	• Movement permit - issued after vehicle inspection • **Kenya:** Charges - vehicle weighing less than 3 tones - KES 1,500 (USD 15); vehicles weighing more than 3 tones – KES 3,000 (USD 30) • **Uganda:** Charges - vehicle weighing less than 3 tones - USD 5; vehicles weighing more than 3 tones – USD 10) • Valid for a period of one calendar year. For renewal, companies must attach copies of their previous permit when submitting their application.
At the Border	• Export permit • Costs: 0.5% of the consignment value; • Issued at the boarder • Exporting country competent authority samples fish for conformity verifications as provided for in the documentation

Figure 3.1. Flow diagram of Fish moving from Uganda to Kenya

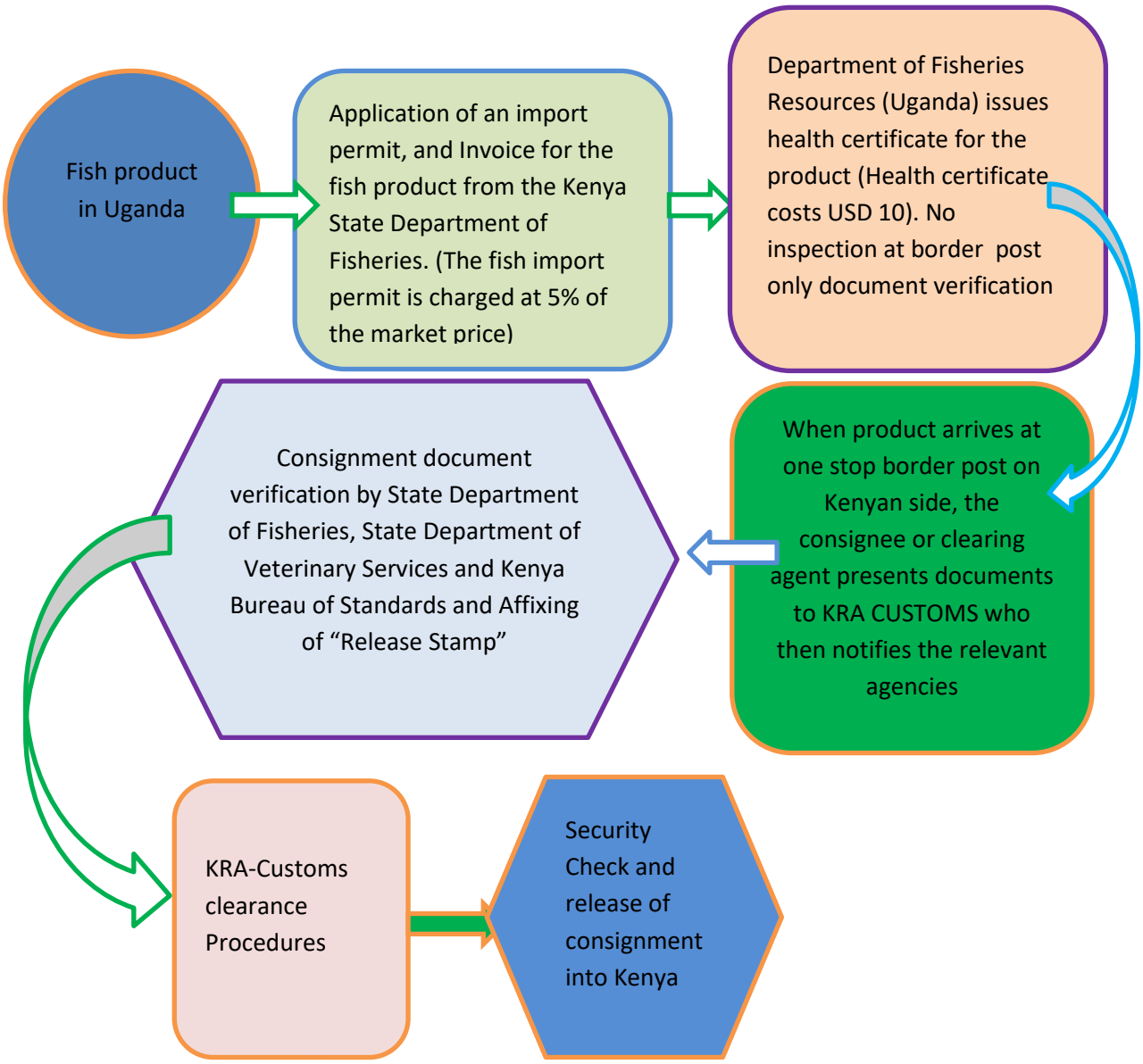


Table 3.2: Fish Import Requirements

Inspection/Verification Stage/Permit	SPS/TBT Document Issue
At the Border	• Import permit • Confirmation of export health certificate from the point of origin • Confirm invoice/ receipt of payment • Kenya has sampling guidelines for big consignments: Sampling every fifth consignment for organoleptic test; No guidelines for sampling small consignments **Gaps:** Big consignments in lorries that are not accompanied with export health certificates are dispatched in small quantities to bypass the boarder clearance process

3.4.2 Certification Process Flow in Dairy Trade

About 86% of sampled dairy products consignments at Busia and Malaba border posts were exports from Uganda to Kenya. Dairy products import requirements for Kenya and Uganda are largely similar and are prescribed by the Kenya Dairy Board and the Dairy Development Authority of Kenya and Uganda, respectively. Dairy products may be traded (import/export trade) between Kenya and Uganda under the conditions shown in Tables 3.3 and 3.4 and figure 3.2 below

Table 3.3: Dairy Products Export Requirements

Inspection/Verification Stage	SPS/TBT Document Issue
Production/Processing	• Licensing of milk handling premises: bulking centre and processes • Routine inspection of milk handling premises • Certificate of analysis: UNBS; KEBS
	• International veterinary health certificate (per consignment) - issued at the processing facility • Shows organoleptic test results indicating it is safe • Charges (Kenya) - KES. 1,500 per consignment); Shows organoleptic test results indicating it is safe
	• Standardization (Q) mark- big processor (annual) • Standardization (Q) mark- small processor (annual • Standardization (S) mark- per product (annual) • Certificate of analysis (cost per parameter) • Food hygiene license (annual) • Biannual medical certificate (per staff)

Transportation	• Inspection report for the transport vessel • Transport certificate – has same information contained in the inspection report
Export Authorization	• Export permit • Kenya - Issued by Kenya Dairy Board; Uganda – Issued by Dairy Development Authority • Application fee (Kenya): KES 600 (USD 6) • Cost of permit: Kenya - KES 1,000 ((USD 10); • Cost of permit: Uganda - USD 10.00
At the Border	• Exporting country competent authority samples milk for conformity verification as provided for in the documentation

Table 3.4: Dairy Products Import Requirements

Import permit

Application for import permit → inspection; → issuance of certificate or rejection

Provided by Kenya dairy board (KDB) KES 1,000 ((USD 10);
Application fee: KES 600 (USD 6)

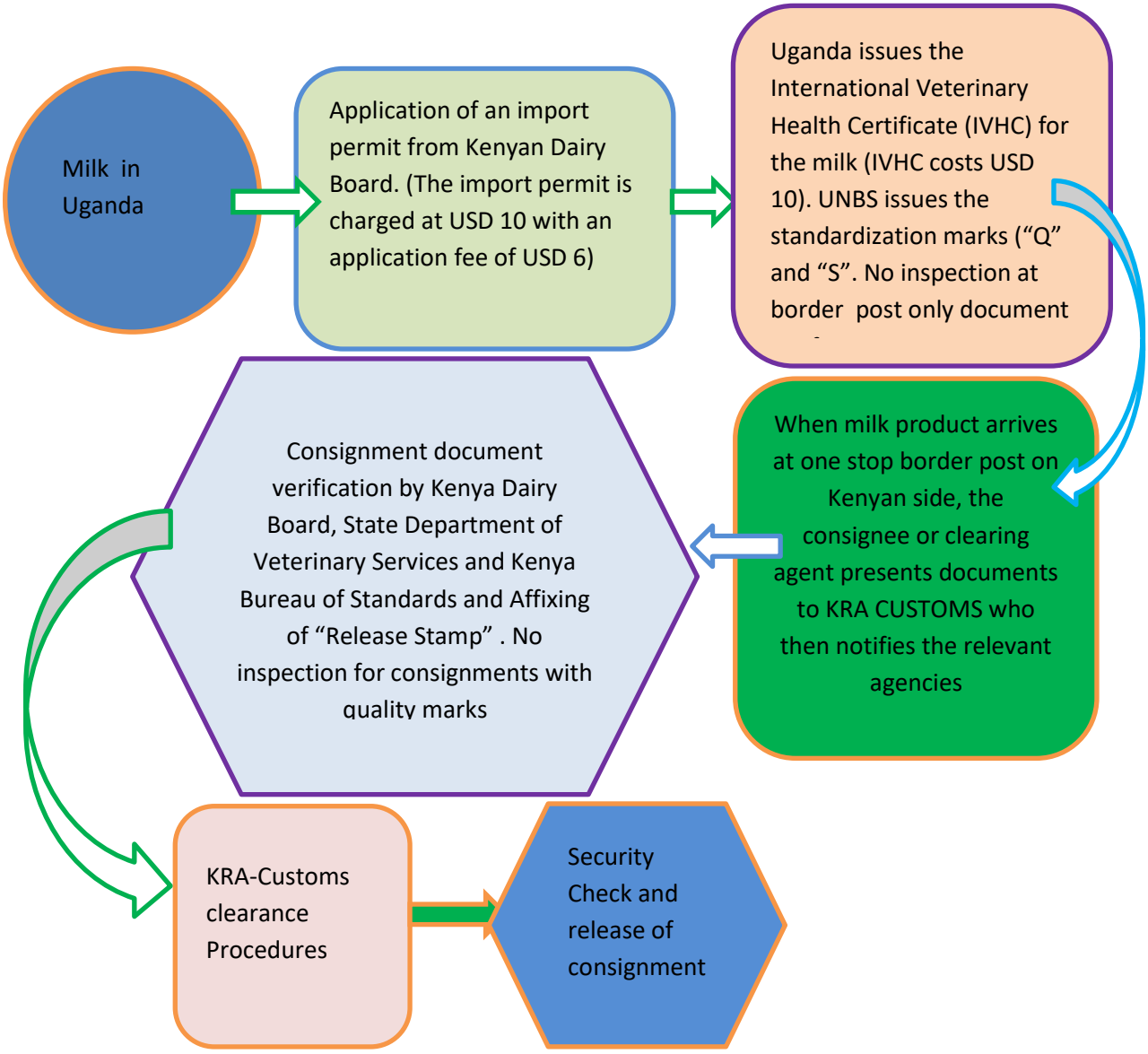
Clearance at boarder

Confirm international veterinary health certificate from the point of origin
Confirm invoice/ receipt of payment

Kenya has sampling guidelines for big consignments: Sampling every fifth consignment for organoleptic test; No guidelines for sampling small consignments

Gaps: Big consignments in lorries that are not accompanied with export health certificates are dispatched in small quantities to bypass the boarder clearance process

Figure 3.2. Flow diagram of Milk moving from Uganda to Kenya



3.5 Costs of SPS/TBT Related Certification and Procedures

3.5.1 Costs of Obtaining Certificates and Permits

Certificate of Analysis

Fees charged for the provision of the Certificate of Analysis was based on the number of parameters investigated. In Uganda, the average fee was about USD 15.00 per parameter, however the certificate of analysis is not a requirement at the border. The parameters tested included: total plate count; drug residues; and Salmonella. In both Kenya and Uganda, milk imports were required to have a mandatory quality mark from the respective national bureau of standards for ease of clearance during the document verification. Consignments without the quality marks were retained and samples collected for laboratory analysis. The fee charged for the quality marks included USD 225.00 per year (Q-Mark) for the big processors and USD 140.00 (Q -Mark) for the small processors. An alternative option of USD 5.50 per product (S -Mark) was also available.

Import Permit:

Import permit is issued free of charge. The trader however bears the cost of transport for the inspectors in case it is suspected that the import conditions at the trader's premises do not meet the required standards or when the trader initiates request for certification of premises.

International Veterinary Health Certificate (IVHC)

In both Kenya and Uganda, the International veterinary health certificate costs USD 10.00 per consignment, regardless of the number of trucks or quantity of the commodity in the consignment. The fee for obtaining the international veterinary health certification for milk was considered high by 11.3% of the traders, moderate by 45.1% and minimal by 25.4%. For fish, traders who thought that it was high were 11.1%; moderate 86.1% and minimal 2.8%.

Inspection report

No fee is charged for these routine inspections. The frequency of inspections is varied for different traders depending on individual processor's adherence to the set standards.

Import/ Export license

The cost annual import/export license is USD 55.00.

Table 3.5 & 3.6 provide a summary of the SPS related certification costs for dairy and fish products, respectively.

Table 3.5: Summary of SPS and related certification fees for Milk

Indicator		Fee (USD)	
		Uganda	**Kenya**
Average SPS related certification fee for milk products (disaggregated by certification category)	Milk movement permit (annual fee)	10.00	10.00
	License to process milk (annual)- depends on processing capacity	42-140	
	Export license (Annual)	55.00	
	International veterinary health certificate (per consignment)	10.00	10.00
	Standardization (Q) mark- big processor (annual)	225.00	-
	Standardization (Q) mark- small processor (annual)	140.00	
	Standardization (S) mark- per product (annual)	5.50	
	Certificate of analysis (cost per parameter)	15.00	
	Food hygiene license (annual)	100.00	-
	Biannual medical certificate (per staff)	6.00	6.00

Table 3.6: Summary of SPS and related certification fees for Fish

Indicator		Fee (USD)	
		Uganda	**Kenya**
Average SPS related certification fee for fish products (disaggregated by certification category)	Fish export health certificate (per consignment)	10.00	10.00
	Fish, field inspection report (% of market value of the consignment)	0.5%	0.5%
	Fish import permit (% of market value of the consignment)	5%	5%
	Fish transport truck approval (sanitary standards <= 3 tons	5.00	-
	Fish transport truck approval (sanitary standards >3 tons	10.00	-

Other costs

Other costs include USD 55.00 per year for issuance of certificate to transport; USD 20.00 per year for issuance of certificate to collect and trade in raw milk. The Dairy Development Authority also issues a processing license at a cost of between USD 42.00 and USD 140.00 depending on the processing capacity.

3.5.2 Time to obtain SPS/TBT Certification

Key challenges related to certification were identified are as follows:

- Many certificates, permits and licenses that did not all relate to SPS requirements
- Multiple document controls by the customs departments.

All this contributed to a lot of time being wasted by businesses.

The milk traders obtained the International veterinary health certificates within different turnaround times. For 69.7% of the sampled consignments, the certifications were obtained within a day and while for another 24.2% of the consignments, the certifications were obtained within two days upon submission of request. Request for the International Veterinary Health Certificate (IVHC) was submitted manually for 80% of the consignments, and only 20% of the requests were submitted electronically. All the requests submitted electronically were obtained within the same day, within a period of 20-45 minutes upon submission. All the requests that were processed beyond one day had been submitted manually. The process for processing/ acquisition of SPS certifications were manual for all the sampled fish consignments.

While the fee for IVHC was considered modest by about 45.1% of the interviewed traders, concerns were raised regarding the costs incurred to obtain the certificate, especially by the traders based in Kampala. The certificate is only provided at Entebbe, the head office, while many traders are based in other towns that are distant from Entebbe. This comes with an inconvenience of travel time and costs that occasionally delayed the dispatch of consignments.

In obtaining international veterinary health certification for the sampled milk consignments, 23.9% of the agents/ traders responsible for facilitating the process were not satisfied with the speed at which certification of the consignments were processed. About 47.9% of respondents rated SPS certification of the consignments as moderate while only 2.8% were of the view that the process was fast.

On the other hand, international veterinary health certification fee for the consignments were rated as: High (11.3%); Moderate (45.1%) and Minimal (25.4%). Table 3.7 shows rating for international veterinary health certification fee and certification processing time for milk consignments.

Table 3.7: Rating for certification turnaround time for milk and fish consignments

Fish			Milk		
Fee	Frequency	Percent	Rating	Frequency	Percent
High	8	11.3	Fast	2	2.8
Moderate	32	45.1	Moderate	34	47.9
Minimal	18	25.4	Slow	17	23.9

In obtaining SPS certification for the sampled fish consignments, the agents/ traders responsible for facilitating the process were not satisfied with the speed at which certification for 17.1% of the consignments were processed. SPS certification for 54.3% of the consignments was rated as moderate while 28.6% of the consignments were reported to have had a fast tracked SPS certification.

On the other hand, SPS certification fee for the consignments were rated as: High (11.1%); Moderate (86.1%) and Minimal (2.8%). Table 3.8 shows rating for SPS certification fee and certification processing time for fish consignments.

Table 3.8: Rating for certification fee and turnaround time for Fish consignments

Certification Fee			**Certification Turnaround Time**		
Fee	Frequency	Percent	Rating	Frequency	Percent
High	4	11.1	Fast	10	28.6
Moderate	31	86.1	Moderate	19	54.3
Minimal	1	2.8	Slow	6	17.1

From the interviews with the fish traders, 38.9% of the traders felt that the SPS certification process was fast while 58.3 % and 2.8% thought that the process was moderate and slow, respectively. None of the interviewed traders thought that the certification fee was high, 66.7 % thought the fee was moderate while 33.3 % considered the fee to be low. Table 3.9 shows how the traders rated the SPS certification fee and processing time.

Table 3.9: Rating for certification fee and turnaround time for Fish traders

Certification Fee			Certification Turnaround Time		
Fee Rating	Frequency	Percent	Rating	Frequency	Percent
High	-	-	Fast	14	38.9
Moderate	24	66.7	Moderate	21	58.3
Minimal	12	33.3	Slow	1	2.8

There were however concerns about the time wasted by traders in getting clearance by KDB, which is largely seen to rely on DVS approval to issue permits. This appears more of duplication of roles since DVS and KDB were involved in the same thing. This is further exacerbated by the manual document process. As a way of minimizing time wastage, there were suggestions to link the two institutions through a digital platform to relay real time information, and to curb the delays associated with this process.

3.5.3 Costs of Temporary Storage

The two borders do not have temporary storage facilities. None of the SPS procedures required that the goods are off-loaded into a temporary storage. Parking fee was however paid for trucks transporting milk consignments. The rate was dependent on the duration of time spent at the parking. This implies that the approximately 1 hour spent by milk transporting trucks, together with the time spent on physical inspection for SPS compliance of consignments, would to some extent contribute to additional costs in the parking bay. The study was however not able to disaggregate the temporary storage/parking costs by 'SPS' and 'non SPS' categories. For the sampled milk consignments, the parking fee was charged as outlined in Table 3.10.

Table 3.10: Storage costs/ parking fee (Milk) - Fee based on time spent at the parking

UGsh	US$	Frequency	Percent
200	0.056	1	1.4
500	0.14	1	1.4
1200	0.336	2	2.8
5,000	1.4	27	38.0

6,000	1.68	2	2.8
12,000	3.36	4	5.6

In the interviews with the traders, it was noted that waiting charges were transferred to the trader, where the trucks were outsourced and the border clearance delayed for SPS related issues. Other indirect costs included staff related expenditures for accommodation and meals. Staff cost was higher in case of hired drivers who were paid per trip, with a predefined number of hours/days per trip. These indicators may be appropriate in the contexts where commodities are offloaded into a temporary storage facility at the border before they are cleared and released to the destination. It was not however applicable in the context of this study.

3.5.4 Time Spent on SPS/TBT Document Checks

The time spent at the border post was dependent on the length of the queue. The average time spent on SPS document checks was 59.32 minutes for Milk and 7.82 minutes for Fish. In the opinion of the interviewed traders, transporters and clearing agents for both fish and milk, the main cause of delay at the border was attributed to the congestion. Many of the stakeholders were of the opinion that the delay at the borders can be solved through expansion of infrastructure.

There were no differences in document checks time for consignments belonging to either gender, i.e. male and female traders. While the average time for fish consignments' document control was minimal, some traders (13.5%) lost contract as a result of SPS related border delays, when the fish consignments were subjected to SPS related scrutiny. This was according to the data obtained from interviews with the fish traders. All the 5 traders lost the contracts within a period of one year preceding the study.

3.5.5 Costs of SPS/TBT Related Consignment Rejection

None of the consignments included in the baseline study sample (both for fish and for milk) were rejected for not meeting SPS/TBT requirements. In the follow up interviews with the traders (post analysis), it was apparent that the three months reference period was not an adequate timeframe to measure rejection of commodities and that a one-year timespan would have been appropriate, since it is not a common occurrence. Regulators' records were identified as a reliable secondary means of verification for the indicator on rejection. This, the traders said, is only possible if the regulators

information management is expanded to record all rejection cases, including quantity and value of consignment as well as reason for rejection.

Although none of the sampled fish consignments was rejected in part or in entirety, the interviewed fish traders reported experiencing consignment rejection in the past. The traders who have experienced consignment rejection in the past were 24.3% (9/37), with 5.4% (2/37) experiencing rejection within the past one month prior to the study, 13.5% (5/37) within the past 3 months and another 5.4% (2/37) within the past 1 year. Table 3.11 shows the rate of fish consignment rejection as a result of SPS requirements. Six of the traders had their consignments rejected in part while one trader reported having the consignment rejected in its entirety. The rejected fish was either destroyed at the border or taken back to the traders' premises. Some traders (8.1%) reported losing contract as a result of SPS related consignment rejection. It was not however possible to estimate the value of the lost contract, since the traders did not provide this information. SPS related rejection was as a result of fish spoilage and use of inappropriate fishing methods.

Table 3.11: Fish traders experiencing consignment rejection due to SPS non-compliance

Indicator	%
Percent traders who ever experienced consignment rejection	24.3
Percent traders who experienced consignment rejection less than a month	5.4
Percent traders who experienced consignment rejection >1 month, and <= 3 months	13.5
Percent traders who experienced consignment rejection > 3 Months, and<=1 year	5.4
Percent traders reporting loss of contract as a result of consignment rejection	8.1
Value of contracts lost by fish traders as a result of SPS related consignment rejection	-

3.5.6 Costs of SPS Laboratory Test and Physical Inspection at the Border Post

The regular SPS compliance assessments for the two commodities were mainly undertaken using simple methods, specifically physical inspection using organoleptic methods. These methods were reported to be reliable and could detect even cases in which chemicals were used to harvest fish. According to the traders, analysis requests were referred to designated laboratories only in cases where the consignment was suspect. Such cases were however not common at the two borders and were not identified in any of the consignments sampled for the study. The time taken for the physical inspection of consignments to determine SPS compliance was minimal for both commodities, averaging 11.11 minutes for fish and 16.46 minutes for milk. Table 3.12 provides details of time taken for physical

inspection for the two commodities, while table 3.13 provides the indicator scores for border point delays.

Table 3.12: Duration of border point SPS assessment procedures

Procedure	Range	Minimum	Maximum	Mean	Std. Deviation
Physical inspection of fish (N=35)	78	2	80	11.11	14.509
Physical inspection of milk (N=69)	60	5	65	16.46	18.898

There were no fees paid for the physical inspection of milk and fish consignments at the border. While the traders did not meet any costs for these procedures, there were concerns over the quantity and value of consignments sampled for the physical inspection. There was no clear guideline on the sampling approach, sample size and sample selection for the tests, leaving the decision at the discretion of the regulators.

Samples taken were reported by the traders to be larger than required, and to some extent contributed to losses by the traders. Where samples for suspect consignments were referred for laboratory analysis, the waiting time (for the SPS analysis results) was noted to be long, leading to border delays. Although the average time for SPS related assessments on milk consignments at the border posts were low, the traders cited cases where the consignments stayed overnight at the border post (over 24 hours) causing a lot of inconvenience both to the trader and the clients. These cases occurred when the SPS inspection offices at the borders were closed, an observation that was attributed to low staff levels that could not sustain the recommended 24 hours operation system at the border.

During this study, some 46.5% (33/71) of the milk consignments were subjected to physical inspection at the border. Estimated value of the sample was recorded for 22 milk consignments. An average of US$ 3.2 was lost in form of sample for physical inspection of the milk consignments at the border. Table 3.13 shows the value of the samples drawn from the consignments sampled during this study.

Table 3.13: Estimated value of the milk samples drawn for SPS inspection

Amount (UGsh)	Amount ($)	Frequency	Percent
5,000	1.4	1	1.4
10,000	2.8	14	19.7
12,000	3.4	1	1.4

15, 000	4.2	4	5.6
16, 000	4.5	1	1.4
20,000	5.6	1	1.4

Since there were no laboratory facilities at the border, there was not analysis undertaken. However samples were taken for analysis by competent authorities for monitoring purposes. The critical assessments for compliance with SPS requirements were undertaken at the processing, packaging and transportation stages of the value chain. Analysis at the border was therefore not critical but the results were used to discern the level of compliance with requirements.

3.5.7 Cost of Informal Payments

Informal payments were made for two milk consignments at US$ 50 and US$100 respectively, by the clearing agents. This translates to 2.8% as the proportion of milk consignments for which informal payments were made at the border. Reasons for the informal payments were to 'facilitate quick clearance of consignments at the border'. From the key informant interviews, some stakeholders reported that the informal payments were common as a way of facilitating smooth movement and preventing SPS rejection at the border. According to one of the milk traders from Uganda (Busia border): "Consignment rejections are not common. There are ways of mitigating such rejection as long as you are willing to facilitate the Regulatory Authorities'. From the interviewed fish traders, 16.2% had made informal payments to facilitate SPS clearance of their commodities.

3.5.8 Cost of SPS/TBT Behind the Border Compliance

SPS/TBT compliance at production/ processing

SPS/TBT compliance can be assessed through:

- Testing of a product to ensure conformity with the applicable standards;
- Assessment of the producer's/trader's quality control system according to specified conditions.

The interviewed traders reported that they incurred high SPS related administrative and operational costs. These included staff costs, documentation costs, and interventions to meet the SPS requirements. At the point of processing, the traders identified SPS related staff costs in packaging, sorting/ grading and quality control staff. They also reported high expenditures incurred in establishing the conditions for packaging and storage of the commodities to meet the SPS

requirements. The traders were however not able to disaggregate costs per staff as well as approximate costs incurred on SPS related interventions at the point of production. Staff costs were mainly related to SPS/TBT quality assurance functions at the points of production and packaging.

Additionally, there are costs related to the use of food grade aluminium/stainless steel instead of plastic containers as recommended by the regulatory authorities. This requirement carries with it an additional cost since the metallic containers are approximated to cost over 50 % higher than the cost of plastic containers. Closely linked to this is the sanitary requirement that abolished long distance milk transport using aluminium cans. The sanitary conditions required for micro level treatment of milk including the use of batch pasteurizers instead of other alternative and cheap bacterial control approaches such as boiling in saucepans were noted to escalate the cost of processing and trading in milk. An interview with the traders revealed that these sanitary requirements had knocked out some traders, while at the same time hiked the price of milk leading to escalated costs in the export trade.

Sanitary interventions for fish commodities

Fish trade between the two countries is mainly from natural ecosystems and the bulk of it is fresh unprocessed fish. In Uganda, at the production level, the bulk of the intervention costs are not met by the trader but by the Department of Fisheries Resources, which carries out regular tests on the fish, water, and water sediments to check for harmful micro-organisms, heavy metals and pesticide residues. As a result, the study was not able to determine the SPS costs at the point of production and in processing of fish products. With increased promotion of value addition in EAC region, fish processing is likely to increase and this will inevitably attract costs related to be SPS/TBT compliance.

A number of initiatives aimed at strengthening SPS compliance have been introduced. The EAC Border Fish Inspector's (BFI) manual was developed and approved by the EAC Council of Ministers, in 2017. The EAC Sanitary and Phytosanitary measures for Fish and Fishery Products was launched in 2017. The next steps after the launch will include sensitization of the key stakeholders on these EAC SPS measures. Actions will aim at creating awareness and training on Fish and Fishery Products sanitary measures in the EAC region and to strengthen implementation pathways. The implementation plan outlines the results to be achieved in the areas of development of training manuals, enhancing the capacity of inspectors on sanitary measures on fish and fishery, sensitization of stakeholders to enhance their capacities, lab capacity building and trade and marketing. The regional sanitary measures will be operationalized through the EAC SPS Protocol and other necessary laws provided for in the EAC legal instruments and decisions of relevant EAC organs.

It is clear that at the moment SPS/TBT compliance costs are predominantly at production especially where fish is farmed (ponds) compared to fish farming under natural ecosystems such as lakes where the routine SPS compliance checks are undertaken by the government. Compliance costs increases at processing level will have the net effect of increasing trading costs. The level of effort required for data recording/management and the cadre of staff required to support implementation of SPS standards and measures will likely influence SPS compliance costs upwards.

SPS related transportation costs

In transportation of fish, the two countries had a binding agreement on exclusivity of the fish transport trucks so that the truck vessel designated for fish transport should be exclusively for this purpose. While it may not be a direct SPS cost, the income loss as a result of this restriction may be profound on the transporters, especially during the periods when fish transportation business is low and the trucks lie idle. In the view of some traders, rather than focus on monitoring exclusivity of the truck for purposes of fish transport, the regulators should focus on the condition of the truck at the time it is engaged in fish transportation. Standards should be set at this level as a way of providing better results on SPS quality. The interviewed regulators were however of the opinion that this condition should be enforced and adherence observed by all stakeholders.

Cost of Remedial SPS Interventions at the border

None of the sampled consignments were subjected to remedial SPS interventions at the border. Costs resulting from remedial border interventions are incurred in instances where, upon inspection/ assessment by the relevant regulatory authorities, the consignments are subjected to some treatment in order to meet the threshold required for the export market. This indicator may not be relevant for the commodities under study but is likely to be encountered in the contexts where chemical analysis, microbial analysis etc. are undertaken. The indicators on remedial intervention costs were therefore reported at zero for each of the commodities.

4 Summary of Findings and Conclusions

4.1 SPS/TBT certification across borders

A wide range of government departments, authorities, agencies and boards are involved in TBT/SPS regulation, including the bureaus of standards, drugs authorities, and Ministries responsible for Agriculture, Livestock, and Fisheries. The roles of these institutions mainly focus on inspections, assessments and tests to ascertain conformities with the standards set on SPS/TBT requirements. Kenya and Uganda do not have mutual recognition agreements and therefore there is no acceptance of verification by the other country, implying that inspections of the consignments are done by each of the regulatory authority of the two countries. The operationalization of one-stop-border post provides an excellent opportunity to reduce duplication of inspections by the agencies on each side of the border. To a large extent, certification requirements and procedures are harmonized between the countries.

For cross-border trade certification of milk and milk products in Kenya, traders in Kenya obtain certification from both Department of Veterinary Services (DVS) and Kenya Dairy Board and there is need for reform so that exporters are required to go to only one authority for the certification.

4.2 Inspections and Sampling

Several SPS/TBT agencies have the authority to inspect and take samples from consignments at the border, and to test for different parameters relating to safety and quality as a means of monitoring compliance. However, inspections and sampling generally take little time, but this appears to be because of the lack of resources to do anything more, rather than an intentional attempt to facilitate trade. Some procedures are based on regional or international standards with local standard operating procedures, this needs to be documented and implemented consistently. There are EAC harmonized SPS standards for milk and fish products, however their implementation has not been fully cascaded to the border operations. In most cases only "organoleptic" tests were done - a quick visual inspection to confirm that the product has a normal appearance and smell. Sampling was also done as part of monitoring for the compliance with set standards and other requirements by the specific agencies at the borders. In addition, because of absence of mutual recognition agreements between Kenya and Uganda, inspections, tests and other forms of verifications were done on both sides of the borders. One would therefore conclude that the inspections were not based on risk assessment.

Both countries do not charge for border inspections, sampling and testing, but there are costs in terms of dwell time at the border, as there are many duplications within each country and between the two countries. Trucks unnecessarily stay longer at the border pending clearance.

The scope of inspection at the border points was limited but needed to be streamlined in line with OBSP operations. The regulatory authorities undertake documentary and identity inspection (physical inspection) of the consignments. There were however concerns about the large quantities of samples taken from the consignments. This concern comes even as stakeholders raise questions on the value additional organoleptic tests conducted at the border, more so considering that the sampling approach

is not risk based. This raises the possibility that some consignments not meeting the SPS/TBT specifications may pass through the borders undetected. A number of stakeholders interviewed attributed the weak sampling practices to capacity gaps among the regulatory authorities, noting that the officers working at the Malaba and Busia borders did not have requisite training on risk-based sampling for SPS related checks. In addition, sampling of commodities for inspection/ assessment at the border posts do not have clear guidelines that include sample size and sample selection procedures/methods.

4.3 Fees for SPS/TBT related certifications

The cost of obtaining SPS/TBT certification for both milk and fish are minimal, and the available data indicate that they are largely harmonized between Kenya and Uganda. However, the SPS/TBT costs relating to fish import permit charged by the fisheries authorities in Kenya and Uganda are very high (5% of the consignment value). The cost seems to be disproportionately high. This could be a contributory factor on why most small-scale traders opt to look for alternative routes or use corrupt means to move the goods to the importing country including by water on the lake, hence the thriving informal. This is supported by trader responses captured in the tools during the assessment.

4.4 Time at border for checking SPS/TBT documents

The average dwell time during inspections associated with document checks ranged between 8 minutes and 1 hour depending on the queue. The traders interviewed reported varying durations in terms of time spent at the border for either waiting for officials for document checks or involvement of multiple agencies for document checks. There were no charges for document checks.

At the Busia and Malaba border posts between Kenya and Uganda, the SPS/TBT documents are checked by customs officers as well as by SPS/TBT regulatory authorities. While this may not cause substantial delay, it does indicate that improvements are still possible.

Although the border posts operate 24 hours, some TBT/SPS regulatory authorities do not operate on a 24-hour basis, with inadequate staff as one of the major reasons cited. Improved interagency collaboration, as well as cross-border collaboration, could contribute to improving this situation even without deployment of additional staff.

4.5 Time to obtain SPS/TBT Certification

Time taken to obtain SPS/TBT certification was varied for different SPS/TBT certification. The time taken to do something is equivalent to a cost, even if a dollar value is not placed on the time. There

are a several aspects to the process of obtaining certificates, which all contribute to the time taken and therefore cost to the trader.

Manual versus and electronic processing: All the requests submitted electronically were obtained within the same day, within a period of 20-45 minutes upon submission. All the requests that were processed beyond one day had been submitted manually. The process for processing/ acquisition of SPS certifications were manual for all the sampled fish consignments. While electronic processing of SPS certification was usually faster, this approach had not been adequately implemented and certification for majority of the consignments was done manually. The process of obtaining SPS certifications was also complicated by the centralized system of issuance at the head office, causing inconvenience to the traders. This was due to limited computer infrastructure to implement the system and incomplete integration of the Kenya Trade Network (KENTRADE) Single Window System between to Border Inspection Points (BIPS); and in Uganda the Single Window System (ASCUDA) is yet to be completed for this function.

Location of certification office. In some cases, the fees for certification was impacted by the centralized nature of services, for example, the traders based in Kampala and other towns have to travel Entebbe to obtain the International Veterinary Health Certificate (IVHC). The certificate is only provided at the Head Office based in Entebbe. This comes with an inconvenience of travel time and transportation costs that occasionally delayed the dispatch of consignments. In most cases the necessary certification was either obtained at the headquarters in the capital, or at the border. Travelling to the capital is obviously inconvenient for some traders, in which case they prefer to obtain the certification at the border. It is not clear whether in all the cases where this occurs it is actually provided for in the regulations, or whether it is simply the border agencies taking a pragmatic approach. In some cases, certification is accessible on line, which eliminates travel time and reduces the time taken obtain the document.

Waiting time. Overall, most of the traders of both milk and fish were not satisfied with the speed at which the certificates were obtained. This assertion however seems to have been subjective - **w**here inspection and sampling was undertaken, the time was in all cases relatively short. In some cases, this was probably because equipment and facilities that would have meant detailed and time-consuming inspection, sampling and testing were not available. Most competent authorities reported that they were mandated to conduct inspection and testing, so if they all had more resources, the time taken, and therefore the cost to the trader, could increase substantially.

Duplication of inspections. In only a few cases was there clear evidence of formal or institutionalized collaboration between agencies either within or across the border.

Selection of consignments for inspection/sampling. The underlying assumption of inspection often appears to be that if the capacity is available, every consignment should be inspected and even

sampled. There was no demonstration of any systematic rules for determining inspection or sampling frequency, although several agencies reported using international standards.

4.6 Costs related to SPS/TBT Consignment Rejection

SPS related consignment rejection at the border was recorded during the sampling period. However, it was noted to be a challenge especially to the fish traders leading to loss of contracts in the past. The challenge experienced mainly related to the use of prohibited fishing methods, especially the use of herbs. This happening at a time when the two borders are still employing physical inspection as the only method of assessment for the two commodities is of great concern. According to the stakeholders, it is expected that cases of rejection will rise when inspections, sampling and testing will be enhanced including laboratory analysis. The enhancement of inspection may also come with additional remedial SPS interventions on the consignments before they are allowed to cross over to the country of destination.

Although SPS/TBT compliance interventions at the point of fish production was not relevant in the context of this study since it happens under natural ecosystem, expansion in farmed fish will certainly come with high costs related to compliance with SPS/TBT measures. Strengthening fish value chain beyond the unprocessed fish currently traded between the two countries, will certainly attract additional SPS compliance costs at the point of processing, and that will have to be met by the trader/ processor.

4.7 Costs related to Border Storage Facilities

The border posts on the Ugandan side did not have temporary fish cold storage facilities that can hold fish commodities while awaiting inspection and clearance for export. However it was noted that a cold storage facility existed on the Kenyan side of the border. This however is not an issue as there is no procedural requirement for temporary storage.

4.8 Awareness and Knowledge among Traders

Information on SPS/TBT certification and other requirements at the border was not readily accessible to the traders. Traders are not conversant with the export/ import trade requirements. They rely on agents and are at risk of potential exploitation. This information is not readily accessible online on websites of competent authorities. As a result, many traders opt to engage the agents who are considered knowledgeable and able to engage through the procedures at a relatively faster rate. On

the other hand, the profile of the Trade Information Desk is very low and its potential to highlight SPS/TBT requirements especially to small scale traders has not been fully realized. Stakeholders also raised concerns on the functionality of structures, such as the joint border committees (JBC) established to coordinate boarder activities and to provide information to traders. It was noted that the JBC were not utilizing their unique mandate as facilitators of trade by using powers legislated through the EAC and EAC ministries. The committees did not hold regular meetings and did not play an active role in sensitizing officers and traders on important issues.

4.9 Use of Regional Trade facilitation tools

The verification procedures/guidelines for the two products as intentioned in the OSBP are yet to fully operationalized. Thus the stakeholders continue to call for harmonization of procedures at the OSBP so that clearance is done only once to avoid double checking. This could be enhanced through initiation of joint SPS/TBT border verification as opposed to multiple checks by the agencies as is the case currently.

Thus, the extent to which the regional trade facilitation instruments e.g. regional standards, OSBP, and simplified trade regime (STR) affects SPS related cross border trade cost was not easily discernible from the current study. Consequently, it calls for an expanded targeted risk-based monitoring approach and data collection to include both qualitative and quantitative principles to address the implementation of the requirements of the trade facilitation instruments. The new study must be preceded by awareness creation sessions on these regional trade facilitation tools for all the stakeholders.

5 Recommendations

The ultimate goal of this baseline survey was to identify SPS/TBT intervention areas that will not only reduce SPS/TBT related transaction costs but also improving on the indicators on trade facilitation. The recommendations below are therefore made in this light. It is therefore recommended as follows:

1. Need to harmonize the operations of regulatory authorities operating along the borders to facilitate trade. Inspection, sampling and testing can be undertaken by one agency, or jointly by the two countries as envisaged in the One Stop Border Point implementation..

2. Certification processes be automated. This calls for more investment in ICT infrastructure and training of traders, agents and other stakeholders on the use of available electronic platforms. Where several regulatory authorities are involved in issuance of SPS/TBT certificates, licenses and permits, they should be electronically linked with appropriate alert systems to facilitate online document approval.

3. To enhance information access among traders and other stakeholders, information on SPS/TBT certification requirements and fees plus the anchoring legislations should be provided on an easily accessible platform to traders, especially the small-scale ones. Regulatory authorities with existing websites should upload import/export requirements on their websites and provide links to other agencies that support certification processes. IT departments of relevant agencies should work together to harmonize their approaches to information dissemination through electronic media. Trade information should be provided in form of print materials such as booklets, posters for dissemination to trade information officers. In addition to receiving funding from public sources, Trade Information Desks can be sustained through charging a fee, more so if they can demonstrate their value addition to the stakeholders.

   Information on the various certification fees and processing time should be published and made accessible to the traders. The information should be available on the relevant regulators' websites and should be updated regularly. Service charters should also be availed in form of booklets, flyers and posters at the institutions. This will enable the traders to be adequately acquainted to the processes and requirements, without over relying on the Agents. The information content should also include the electronic SPS certification processes that sensitizes and persuades the relevant stakeholders to embrace the use of technology. Utilization of automated SPS certification and clearance systems has the potential of reducing waiting time and eliminating duplicative documentation requirements. Such automations should be well marketed to the traders through sensitization and provision of relevant information. Incentives such as fee waivers may be explored to attract more use of the electronic system.

4. Harmonized risk-based sampling and testing protocols should be developed and stakeholders sensitized about them. All inspectors from regulatory authorities should be trained on the developed harmonized risk-based sampling and testing protocol.

Fundamental information in the sampling protocol should be made available at border points should be made accessible to the trader as a way of ensuring transparency in the process. It will also enable the traders to take into consideration the sample requirements when packing the consignment so that the quantity to be delivered to the importer is not compromised.

5. JBC should meet regularly and should focus on streamlining border operations. Joint sampling and testing (using one sample and one designated laboratory) to be discussed as a possible solution. The lead agency to escalate this issue as an operational bottleneck through official channels. COMESA should use the recommendations from the JBC meeting to push relevant governments and ministries and state corporations to make exceptions for joint sampling and testing as a way of streamlining border operations

   As part of their immediate actions after training, the JBC should organize regular meetings to address trade flow challenges for commodities including milk and milk products. The deliberations should be escalated to relevant ministries and government departments including the EAC for action, and the meetings should serve as training opportunities for new officers on relevant procedures developed by say the EAC on trade facilitation. The JBC should include standard review in their meeting agendas with a view to reviewing standards and measures that hinder trade and do not add value.

6. The STR requirements should be addressed to reflect the realities and challenges experienced on the ground during trade, especially with respect to SPS/TBT issues. Awareness campaigns should be undertaken to popularize STR among stakeholders, with both traders and regulators targeted with sensitization campaigns on standards, operating procedures, and SPS issues affecting fish and milk trade across Busia and Malaba boarders.

7. Centralized SPS certification for fish commodities at Entebbe should be reviewed, and decentralization of these service fast tracked. This should go hand in hand with the development of the e-certification process.

8. Part of the strategy should be to devolve/decentralize the functions of the regulatory authorities, either through authorization of agents or through branch offices.

9. To prevent delays associated with overnight stay at the border, the SPS regulatory authorities should be strengthened through expansion of staff capacity in adequate numbers to allow over night shifts in a 24 hours operational system.

10. Appropriate regulatory infrastructure such as laboratories, cold storage etc. should be established at border posts to allow efficient inspection without compromising the integrity of the perishable commodities in transit. This would also reduce the waiting time if samples do not have to be sent to distant laboratories.

11. Need to harmonize costs of fish certification and trucks to overcome the glaring differences in the fee charged by the regulatory agencies in Kenya and in Uganda.

12. Need to prepare the traders and producers against any shocks anticipated in the enhancement of SPS/TBT border inspections. The intervention should also include support at the point of production and processing to ensure SPS compliance under such enhanced inspection system.

TOOL 101: BORDER POINT ASSESSMENT CHECKLIST

This checklist will be administered at the border point once a consignment is sampled for inclusion in the study. The variables under investigation in this tool are specific to the sampled consignment. Some sections will be easily filled through observation while others sections will require consultations with the regulatory authorities, the trader or the agent.

SECTION I: BACKGROUND INFORMATION

Section I provides information on the border post and the commodity details including the country of origin and the importing country. It also provides details of the data collection officer and the date of data collection. The details are filled in on the day of data collection.

A001	**Name of Border Post**		**A005**	**Commodity**	
A002	**Date of Data Collection**		**A006**	**Exporting Country**	
A003	**Name of Data Collection Officer**		**A007**	**Importing Country**	
A004	**Time Data Collection Starts**		**A008**	**Time Data Collection Ends**	
A009	**Gender of the Trader *(Ask/ verify with the agent)***		**C009B**	**Company**	

SECTION II: ARRIVAL OF GOODS, OFFLOADING AND TEMPORARY STORAGE

Data collection under section II is through observation. The data collector will be stationed at the border point and will track the sampled consignments to capture the information required under this section.

A010	Date and time of arrival of goods at the border	**A:** Date: dd/mm/yy	**B:** Time
A012	Date and time of unloading_ Start	**A:** Date: dd/mm/yy	**B:** Time
A013	Date and time of unloading_ End	**A:** Date (dd/mm/yy)	**B:** Time

A014	Date and time of delivery to temporary storage	**A:** Date: (dd/mm/yy)	**B:** Time
A015	Date and time of release of goods	**A:** Date: (dd/mm/yy)	**B:** Time
A016	Temporary storage charges/ fee		
A017	Mode of transport (use codes)		

Code	**Mode of Transport**	**Tick**	**D**	Road: Truck= 1; Motorbike=2; Bicycle=3
A	Air		**E**	River
B	Sea		**F**	Other (Specify)
C	Rail			

A020 *Sanitary Certificate Number*

A025	Documentary control required	1= Yes	2=No

A026	Date and time of the start of documentary control	**A:** Date: __ __/ __ __/ __ __ __ __	**B:** Time ____ ____
A027	Date and time of the end of documentary control	**A:** Date: __ __/ __ __/ __ __ __ __	**B:** Time ____ ____

SECTION III: LIST OF SPS RELATED CERTIFICATES, FEE AND TIME, REQUIRED PER CONSIGNMENT: *I would like to ask you about the various certificates and permits required for export/ import of (name of the commodity) required per consignment Specifically, I will be interested in the fee paid and the amount of time spent to process the documents. We shall only be referring to the consignment number that has been processed through the border today.*

Interviewer Note: Please note that this section only asks about certificates/ permits specific to the consignment of reference on the interview date and for which the agent was responsible in processing issuance of certificate/ permit

Ver. #	Certificate/ Permit	Approximate processing time			Submission Electronic=1	Amount (Local Currency	Amount (US$)
A100		Days	Hours	Minutes			
A101		Days	Hours	Minutes			
A102		Days	Hours	Minutes			
A103		Days	Hours	Minutes			

SECTION IV: COST OF INSPECTION/ LABORATORY PROCEDURE AT THE BORDER POST *(This Section is filled in when samples are collected at the border and subjected to inspections/ test procedures*

Procedure Code	Name of Procedure	Start Time and Date			End Time and Date				Cost of Procedure
A300		A1:			A2:			A300C	
		B1:	H	Min	B2:	H	Min		
A301								A301C	
		B1:	H	Min	B2:	H	Min		
A302								A302C	
		B1:	H	Min	B2:	H	Min		

SECTION V: COST OF REJECTION

Section VI captures the cost of rejection and should be filled in by the data collector only when the goods in the consignment are rejected. Goods can be rejected in part or in totality. The data collector will be required to record whether the entire consignment is rejected or whether only a section of the consignment is rejected

A500	Was the consignment rejected for not meeting the SPS requirement?		1= Yes	2= No
If yes, please provide the details of the additional SPS intervention:				
	SPS Intervention 1: Date and Time of Rejection and Removal of Goods from the Storage Facility			
		A501A: Date the SPS inspections and tests concluded	**A501B:** Date:	**A501C:** Time
		A502A: Date rejection communicated	**A502B:** Date:	**A501B:** Time
		A503A: Date goods removed from the storage	**A503B:** Date:	**A501C:** Time

A504	Was the entire consignment rejected? 1= Yes 2= No	
A505	What was the reason for r e j e c t i o n ? (Write reason here)	1= SPS related 2= Non SPS related
A506	What happened to the rejected goods after they were taken out of the storage? 1= Destroyed at the border; 2= Transported back by the trader; 3= Other (Specify)	

Cost of Rejection

Item Code	Item Description	Cost (USD- $)
A507	Post Rejection Storage Cost	
A508	Cost of Transportation Incurred	
A509	Quantity of goods in the consignment	

A510	Quantity of Goods rejected	
A511	Unit Value of the Goods (Per Quantity Above)	
A512	Cost of destruction (if met by the trader)	
A513	Other Cost (Specify 1)	
A514	Other cost (Specify 1)	
A515	**Total**	

SECTION VI: TRANSPORTER: The questions in this section should be asked to the transporter

A600	What date and time did the transportation for this consignment begin?	**Date:**	

A601	Was there any delay at the point of loading? Approximately how long did the delay last?	**Days:**	**Hours:**	**Mins:**
A603	What was the cause of the delay?			
A604	*After the departure of the consignment and while on your way to the border, were you stopped by any authorities to review any of the consignment documents?*	1=Yes	2=No	

A605	*Who (what regulatory/ administrative authority) undertook the review of the documents?*	
A606	*Approximately how long did the review last?*	Hours Minutes

	A	***B***	***C***	***D***	***Days***	***Hours***	***Mins***
	What documents were reviewed? (List the documents	Were there any problems with the reviewed documents? **1=Yes; 2=No**	What were the problems with the documentation? (Omission, Expiry, Lacking; Inconsistency ……)				
A700	***A***	***B***	***C***	***D***			

A701 ***A*** ***B*** ***C*** ***D***

A702 ***A*** ***B*** ***C*** ***D***

A800 *Did you stop at any point to have the consignment checked by the trader or any of the agents of the trader?* ***1= Yes*** ***2= No***

A801 *If yes above, What did they check?*

Informal Costs A

A900 *When transporting this consignment, were you asked for any informal payment (probe for bribery) before the consignment could be cleared?* *Yes* *No*

A901 *How much did you pay?*

E102 *For what clearance did you make the informal payment/ bribe?*

D102 Is this an SPS on non SPS cost?

E102A: SPS

E102B: Non SPS

SECTION VII: GENERAL OPINION

F100 *What do you like most about the Sanitary procedures/ requirements for cross border trade?*

F101 *What do you dislike about the Sanitary procedures/ requirements for cross border trade?*

F102	*How would you rate the fee charged for the sanitary requirement procedures for cross border trade?*	*1=High 2=Moderate 3= Minimal*
F103	*What is your opinion about the turnaround time for processing the sanitary requirement procedures for cross border trade?*	*1=Fast 2=Moderate 3= Slow*
F104	*In what ways should the implementation of Sanitary regulations be improved to facilitate ease of trade?*	

TOOL 102: TRADER

SECTION I: BACKGROUND INFORMATION

Section I provides information on the border post and the commodity details including the country of origin and the importing country. It also provides details of the data collection officer and the date of data collection. The details are filled in on the day of data collection.

C001	**Name of Border Post**		**C005**	**Commodity**	
C002	**Date of Data Collection**		**C006**	**Exporting Country**	
C003	**Name of Data Collection Officer**		**C007**	**Importing Country**	
C004	**Time Data Collection Starts**		**C008**	**Time Data Collection Ends**	
C009	**Gender of the Trader**		**C009B**	**Company**	

C010	*Do you have any part time or full-time staff that has been employed by your staff to oversee SPS compliance for your (maize) import/ export?*	***1=Yes***	***2=No***

I would like to know more about the staff engaged by your firm to support SPS compliance. I will not ask any sensitive questions regarding the staff and I would only like to get information that will help us to estimate the cost incurred by traders through the entire process of working towards meeting some of the SPS standards set by regulatory authorities.

NOTE: Section II should capture the details of the staff engaged by the Trader to support SPS processes and all points from production until the commodity meets compliance at the border or until the consignment reaches the depot of the importer.

SECTION II: STAFF COSTS-MET BY THE TRADER

#	SPS Inspection/ Procedure 1	Date and Time of Start and End of SPS Inspection/ Procedure									
	Staff cadre and Role		# of this cadre (How many staff)		Full time (1) or Part Time (2)		Average Monthly Salary (if full time/ monthly salaried)		Daly rate (if wage employed/		Rate if paid per consignment
C011		A		B		C		D		E	
C012		A		B		C		D		E	
C013		A		B		C		D		E	
C014		A		B		C		D		E	

C015	*Do you often undertake any SPS compliance interventions on the consignment before they are released, during transportation or at the storage facility located at the border?*	***1= Yes***	***2=No***
C016	*In the latest consignment that you dispatched, did you undertake any SPS compliance interventions on the consignments before they were released, during transportation or at the storage facility located at the border?*	***1=Yes***	***2=No***

SECTION III: REMEDIAL INTERVENTIONS BY THE TRADER (INCLUDING PROCESSING RELATED SPS INTERVENTIONS								
Code		SPS intervention		Approximate time		Point at which the intervention was *1= At Farm; 2; At Transportation; 3= At Storage/*		Cost of
C100	**A**		**B**		**C**		**D**	

C101	**A**		**B**		**C**		D
C102	**A**		**B**		**C**		D

SECTION IV: COST OF REJECTION

C116 Has any of your consignments been rejected for not meeting the SPS requirement? 1= Yes 2= No

C117 When was the last time your consignment was rejected? 1= Less than a month ago; 2= More than one month ago, within the past 3 months; 3= within the past one year; 4= More than a year ago

C118 Was the entire consignment rejected or was it rejected in part? 1= Entire Consignment 2= Part of the consignment

C119 What was the reason for rejection?

C120 What happened to the rejected goods after they were taken out of the storage? 1= Destroyed at the border; 2= Transported back by the trader; 3= Other (Specify)

Item Code	Item Description	Cost (Local currency)
C200	Post Rejection Storage Cost	
C201	Cost of Transportation Incurred (Local Currency)	*Please record the cost of transport for the entire consignment*
C202	Quantity of goods in the consignment	

C203	Quantity of Goods rejected	
C204	Unit Value of the Goods (Per Quantity Above)	
C205	Cost of destruction (if met by the trader)	
C206	Other cost (Specify 1)	
C207	Other cost (Specify 2)	
C208	**Total**	

C209	*Has your firm ever lost any contract with your customer/ client as a result of consignment rejection for non SPS compliance?*	***1=Yes***	***2=No***
C210	*Have ever lost any contract with your customer/ client as a result border delays associated with SPS procedures?*	***1=Yes***	***2=No***
C211	*In the past one year, did you lose any contract with your customer/ client as a result of border delays associated with SPS procedures?*	***1=Yes***	***2=No***
C212	*The last time you lost a contract, what was the value of the contract you lost?*		
C213	*What was the duration of the contract?*	***_____ Years; ____ Months; ___ Days***	
C214	*In the past one year, did you lose any contract with your customer/ client as a result of consignment rejection for non SPS compliance?*	***1=Yes***	***2=No***

C215	*The last time you lost a contract, what was the value of the contract you lost?*	
C216	*What was the duration of the contract?*	***_____ Years; ____Months;___Days***

SECTION V: LIST OF SPS RELATED CERTIFICATES/ PERMITS, FEE AND TIME: *I would like to ask you about the various certificates and permits required for export/ import of (name of the commodity). Specifically, I will be interested in the fee paid and the amount of time required to process the documents.* **Interviewer Note: Please note that this section only asks about general certificates/ permits not specific to a single consignment**

Ver. #	Certificate/ Permit	Approximate processing time			Submission Electronic=1	Amount (Local Currency	Amount (US$)
D100		Days	Hours	Minutes			
D101		Days	Hours	Minutes			
D102		Days	Hours	Minutes			
D103		Days	Hours	Minutes			
D104		Days	Hours	Minutes			

D105		Days	Hours	Minutes			

SECTION VI: LIST OF SPS RELATED CERTIFICATES, FEE AND TIME, REQUIRED PER CONSIGNMENT: *I would like to ask you about the various certificates and permits required for export/ import of (name of the commodity) required per consignment Specifically, I will be interested in the fee paid and the amount of time required to process the documents. We shall only be referring to the latest consignment that you exported/ imported.*

Interviewer Note: Please note that this section only asks about certificates/ permits specific to the latest consignment exported/ imported.

Ver. #	Certificate/ Permit	Approximate processing time			Submission Electronic=1	Amount (Local Currency	Amount (US$)
E100		Days	Hours	Minutes			
E101		Days	Hours	Minutes			
E102		Days	Hours	Minutes			
E103		Days	Hours	Minutes			

SECTION VII: COST OF INSPECTION/ LABORATORY PROCEDURE AT THE BORDER POST *(This section if filled if there are any specific inspection/ laboratory procedures conducted at the border*

Ver. #	Name of inspection/ procedure	Approximate inspection/ test time	Amount (Local Currency	Amount (US$)

F100		Days	Hours	Minutes		
F101		Days	Hours	Minutes		
F102		Days	Hours	Minutes		

SECTION VIII: COST OF INSPECTION LABORATORY PROCEDURE BEFORE ARRIVAL OF GOODS AT THE BORDER: *This section if filled if there are any specific inspection/ laboratory procedures conducted before the arrival of goods/ commodities at the border.*

Ver. #	Name of inspection/ procedure	Approximate inspection/ test time			Amount (Local Currency	Amount (US$)
G100		Days	Hours	Minutes		
G101		Days	Hours	Minutes		
G102		Days	Hours	Minutes		
G103		Days	Hours	Minutes		

SECTION IX: INFORMAL COSTS/ BRIBERY

Section I: Informal Costs A

H100	*In the latest consignment that you passed through the border, were you asked for any informal payment (probe for bribery) before the consignment could be cleared?*	*Yes*	*No*
H101	*How much did you pay?*		
H102	*For what clearance did you make the informal payment/ bribe?*	D102 Is this an SPS on non SPS cost? (To be filled in by the supervisor) *102A: SPS* *102B: Non SPS*	

SECTION X: GENERAL OPINION

I100	*What do you like most about the Sanitary procedures/ requirements for cross border trade?*			
I101	*What do you dislike about the Sanitary procedures/ requirements for cross border trade?*			
I102	*How would you rate the fee charged for the sanitary requirement procedures for cross border trade?*	*1=High*	*2=Moderate*	*3= Minimal*
I103	*What is your opinion about the turnaround time for processing the sanitary requirement procedures for cross border trade?*	*1=Fast*	*2=Moderate*	*3= Slow*
I104	*In what ways should the implementation of Sanitary regulations be improved to facilitate ease of trade?*			

References

AU-Inter-African Phytosanitary Council- Strategic Plan 2014-2023

AU- Inter-African Bureau of Animal Resources- Strategic Plan 2014-2017

EAC Common Market Protocol

EAC Sanitary and Phytosanitary Protocol

EAC Harmonized Sanitary & Phytosanitary Measures: Volume 111: Sanitary Measures for fish and fishery products: November 2012.

EAC Harmonized Sanitary & Phytosanitary Measures: Volume 111: Sanitary Measures for fish and fishery products: Annex11. Inspector's Guide, November 2012.

COMESA- Regulations on the Application of SPS

Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems: CAC/GL 26-1997

Henson, S., & Masakure, O. (2011). Establishing priorities for SPS capacity-building: a guide to multi-criteria decision-making. Standards and Trade Development Facility.

Magalhães, J. (2010). Regional Sanitary and Phytosanitary Frameworks and Strategies in Africa. Report for the Standards and Trade Development Facility. Geneva: WTO Secretariat.

Principles for the use of Sampling and Testing in International Food Trade: CAC/GL 83-2013: Revision: 2015.

Smart Fish regional fisheries programme: the FAO/EU/Indian Ocean Commission Harmonized Border Fisheries Inspectors Guide for promotion of regional fish trade in Eastern-Southern Africa, 2015.

STDF (2011) SPS-Related Capacity Evaluation Tools. An Overview of Tools Developed by International Organizations, 2nd edn. World Trade Organization, Geneva. Available at: www.standardsfacility.org/Files/Publications/STDF_Capacity_Evaluation_Tools_Eng.pdf

WTO Agreement Series 4 SPS Measures