

Implementing SPS Measures to Facilitate Safe Trade

Principles and Practice in Cambodia, Lao PDR, Philippines and Thailand

by

Kees van der Meer (cljvdmeer@gmail.com)

STDF consultant*

Presentation made at STDF Thematic Session, 26 March 2014, Geneva

* The findings, interpretations and conclusions provided are entirely those of the author. They do not necessarily represent the view of the STDF or any of its partner agencies, donors or countries.

Contents

- Background
- WTO framework
- Methodology and field work
- Findings
- Assessment
- Recommendations

Background

- STDF study – Background note
- Trade facilitation (TF)
 - Low transaction costs promote trade
- Health protection (SPS)
 - Mitigate trade-related health hazards and risks
- Synergy with each other? Study looks at:
 1. WTO rules
 2. How SPS measures are implemented

WTO framework (1)

1. SPS: sovereign right to restrict trade for protection of health, provided measures are
 - Compliant with WTO principles: transparent, science based, non-discriminatory, etc., and
 - Not more trade restrictive than necessary to achieve appropriate level of protection (ALOP)
2. TF: simplification of required processes for border clearance
 - If SPS measures do not restrict trade more than necessary to achieve ALOP, then harmony with trade facilitation

WTO framework (2)

Continued

- What is least trade restrictive?
- What are minimum transaction costs?
 - Some guidance from SPS Agreement (principles, provisions and Annex C); ISSB (Codex, IPPC, OIE)
 - New WTO TF Agreement will sharpen guidance
 - Guidance has gaps, is sometimes vague
 - Much interpretation remains necessary when designing and implementing measures

Scope and methodology

- Cambodia (C), Lao PDR (L), Philippines (P), Thailand (T)
- Transaction costs import/export release processes
 - SPS framework, transparency, risk management, document requirements, waiting time, payments, business costs
- Import and export of similar product groups*
 - Milled rice (other field crops)
 - Fruit and vegetables
 - Shrimp (other fisheries products)
 - Chicken (other meats)
- Interviews: CAs, 10-20 traders
- Verification workshops**; written comments

* For Thailand food safety of all imports and shrimp sector only

** Verification workshops not in Thailand

Findings (1)

SPS system development

- CL: are establishing a basic SPS system
- PT: established systems; Thai more trade friendly

Transparency for traders

- CL: poor, mostly verbal information
- P: written information, web sites, need improvement
- T: good information web sites (mainly Thai language)

Risk-based management

- CL: start application still has to be made
- P: limited application
- T: generally applied; in some areas not fully applied

Findings (2)

Transaction costs

- Business costs more important than payments
- Official fees low in LPT and moderate in C
- Informal payments are general problem: high in CL, small in P, (limited info T)
- Often no receipts for payments in CL
- SPS significant part overall transaction costs
- Transaction costs: extensive informal trade CL

Assessment (1)

SPS, TF principles, standards

1. Waiting times: longer than necessary
2. Informal payments: other costs, inadequate health protection, inappropriate measures
3. Lack of transparency: increased costs and business risk

Assessment (2)

Continued

4. Insufficient risk-based controls: More controls than justifiable
5. Duplicative, unnecessary requirements SPS, Customs (documents, statistics, tax status)
6. Costly requirements product registration, licenses, permits, often not justified on health protection grounds

Assessment (3)

Continued

7. Use of quota in licenses and permits
8. Traceability controls through requirements in permits restrict trade and add costs
9. Unjustifiable requirements for PC by exporting and importing countries

Assessment (4)

Continued

10. Lack of application of equivalence principle leads to unnecessary controls

11. Mandatory export requirements not based on demand of importing countries

12. Requirement to obtain an import permit from country of destination for issuing PC or HC

Especially CLP have possibilities for cost reduction

Assessment (5)

What do countries get back for efforts in SPS control?

Effectiveness SPS controls

- Market access, health protection: CL limited; P fair; T effective shrimp export, moderately in food safety

Efficiency SPS controls

- CL: limited in health protection, mixed in market access
- P: administrative requirements reduce cost efficiency
- T: fair in food safety, good in shrimp export

Assessment (6)

Balance trade facilitation and health protection?

- If properly implemented, SPS measures not more disrupting trade than necessary
- However, often SPS measures
 - Provide less protection than desirable; and
 - Are more costly than necessary
- Guidance SPS more focused on health protection, less on hands-on trade facilitation
- New WTO TF Agreement strengthens focus, work needed to implement it

Recommendations (1)

Some of the recommendations for CLPT

1. Increase awareness of trade restriction and transaction costs
2. Improve transparency
3. Reduce possibilities for rent-seeking
4. Implement and improve risk-based SPS management
5. Abolish use of import and export licenses, permits, at least for low/medium risk products

Recommendations (2)

Continued

6. Abolish product registration, except perhaps for special groups
7. Apply equivalence, unilateral recognition, or seek mutual recognition agreements
8. In general, do not require export certifications that are not demanded by buyer

Recommendations (3)

Continued

9. Abolish unnecessary documents and duplication among agencies
10. Reduce waiting times for issuance of certificates and inspections
11. Adopt automation of SPS import and export release processes, and fully integrate these in the National Single Window (NSW) systems

Recommendations (4)

Recommendations for trade and development community

1. Develop tool box of good practice for implementation modalities of SPS measures from a TF perspective – STDF may facilitate (Compare with Revised Kyoto Convention)
2. Prepare performance assessment tools on the implementation of SPS measures from a TF perspective – STDF may facilitate
3. The SPS Committee may consider developing good regulatory practice (GRP) for SPS legislation, especially for concrete SPS measures

Recommendations (5)

Continued

4. STDF recommended to conduct additional studies in developed and developing countries on implementation of SPS measures for TF:
 - i. strengthening the methodology; and
 - ii. obtaining more information for formulation of good practice
5. Conduct a study on SPS transit modalities in the Greater Mekong Subregion (GMS) – STDF may consider facilitating this work

Recommendations (6)

Continued

6. STDF may consider options to bridge institutional and knowledge gaps between SPS and trade facilitation entities at international and national levels
7. Organizations engaged in trade facilitation are recommended to strengthen their focus on implementation modalities of SPS measures